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102-79

FEDERAL TRANSIT ACT OF 1991

REPORT

OF THE

COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS
UNITED STATES SENATE

TO ACCOMPANY

S. 1194

together with

ADDITIONAL VIEWS

JUNE 11, 1991.—Ordered to be printed

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FEDERAL TRANSIT ACT OF 1991

JUNE 11, 1991.—Ordered to be printed

Mr. RIEGLE, from the Committee on Banking, Housing, and Urban Affairs, submitted the following

REPORT

together with

ADDITIONAL VIEWS

[To accompany S. 1194]

The Committee on Banking, Housing, and Urban Affairs, having considered the same, reports favorably a Committee bill (S. 1194) to amend the Urban Mass Transportation Act of 1964 and for other purposes.

LEGISLATIVE HISTORY OF THE ACT

The Committee on Banking, Housing, and Urban Affairs, to which the bill was referred, approved the bill on June 6, 1991 by voice vote and the Committee recommends that the bill as amended do pass.

The Federal Transit Act of 1991 (S. 1194) incorporates proposals developed over a period of more than six months in consultation with the Administration and leading transit authorities from across the country.

On October 26, 1990, Senators Alan Cranston and Alfonse D'Amato, respectively the Chairman and Ranking Minority Member of the Subcommittee on Housing and Urban Affairs, invited a wide variety of organizations and individuals concerned about mass transit to suggest ways in which federal policy could be improved to respond more effectively to emerging transportation needs. More than 80 responses were received from 27 states and the District of Columbia, including states in every region of the country. Responses were received from state and local transportation authorities, associations of elected officials and transportation agencies, organized labor and private industry. The recommendations were published in January 1991 as the "Report on the Federal Mass Transit Policy—Views and Recommendations" (S. Print 102–6).

On March 13, 1991, the Subcommittee on Housing and Urban Affairs convened a national symposium in Washington to review the Administration's transit legislation and other policy recommendations received by the Subcommittee. Participants in the Symposium included many of the country's top transit experts. Welcoming remarks were offered by Senators Donald Riegle, Alan Cranston, Paul Sarbanes and John Heinz. Keynote addresses were delivered by Richard Daley, Mayor of Chicago, and Kathy Whitmire, Mayor of Houston. Major papers were presented by: Alan Kiepper, APTA chairman and President of the New York City Transit Authority; Michael Meyer, Professor at Georgia Institute of Technology; William Millar, Executive Director of the Port Authority of Allegheny County; and James Cowen, General Manager of Tri-County Metropolitan Transportation. Panels of other transit industry experts reviewed and commented on the papers.

On April 17, 1991, the Subcommittee released a discussion draft entitled the "Metropolitan Transportation Initiative" that outlined a number of legislative proposals the Subcommittee had developed as a result of the national symposium and in consultation with leading transit practitioners. The draft outlined a 4-point program of refinements to current policy that would:

> Give each metropolitan area responsibility to develop a long-term transportation strategy that integrates alternate modes of transportation, showing particular attention to transportation needs that affect national objectives;
>
> Assure each metropolitan area of its fair share of federal highway and mass transit assistance up front, and enable the area to select the projects that carry out its transportation strategy most efficiently;
>
> Create a "level playing field" for local choices of transportation projects, removing conditions that create impropert biases against transit when it is the most efficient, long-term use of transportation resources; and
>
> Open the way to improved methods of project management and financing so that state and local governments can implement their transportation strategies more quickly and cheaply.

The discussion draft was distributed widely so that recommendations for refinement could be incorporated in the Committee bill.

The Subcommittee on Housing and Urban Affairs held 8 hearings throughout the country between August 1990 and April 1991. The hearings reviewed issues to be resolved in the new transit authorization, including: the nation's changing transit needs; the role of federal, state and local governments; and the impact on transit of the Clean Air Act Amendments and the Americans with Disabilities Act. Included were four days of field hearings. On August 6 and 7, 1990, Senator Alan Cranston chaired two hearings, one in Los Angeles and one in San Jose, California, with witnesses representing state and local governments, UMTA, California DOT, environmentalist and local transit industry officials. On February 12, 1991, Senator Bob Graham chaired a roundtable hearing in Tampa, Florida with witnesses representing Florida DOT, UMTA, the Florida Transit Association, environmentalists and other groups. On April 23, 1991, Senator Dodd chaired a hearing in Bridgeport, Connecticut, with witnesses representing private transit companies, local operators and businesses. These field hearings elicited testimony on ways to mitigate congestion, improve funding, preserve our environment and enhance our nation's transportation policies through better corrdination among transportation modes.

The Subcommittee also held 4 hearings in Washington. A hearing on March 15, 1991 received testimony on the Administration's transportation proposals from UMTA Administrator Brian Clymer and several transit operators responding to the Administration's proposal including: Lou Gambaccinni, Southeastern Pennsylvania Transit Authority; Wes Watson, Florida Transit Association; Frank Wilson, Bay Area Rapid Transit District; Peter Stangl, New York Metropolitan Transportation Authority; and Gordon Aoyagi, Montgomery County Division of Transit Services. A roundtable hearing on April 17, 1991 reviewed proposals in the Subcommittee's discussion draft "Metropolitan Transportation Initiative"—including a wide range of witnesses including academics to DOT officials and national environmental groups as well as rural and urban transit operators. A hearing on April 18, 1991 received testimony from panels of witnesses regarding rural transit, transit needs of elderly persons and persons with disabilities, and the transit implications of the Clean Air Act amendments. A hearing on April 24, 1991 provided a detailed discussion of ways to improve capital investment in transit, with participants representing labor and metropolitan transportation systems.

Subcommittee staff held on-site policy discussions with transit operators—including operators of rail, bus, and paratransit systems—in New York, Philadelphia, Baltimore, Detroit, Las Vegas, the San Francisco Bay Area, Sacramento, Los Angeles, San Diego, Honolulu and several other communities. Staff reviewed provisions of the Committee bill on numerous other occasions with representatives of transit systems with a wide range of operating characteristics from many regions of the country.

The Committee bill incorporates the best suggestions from all of these hearings and discussions.

NEED FOR THE LEGISLATION

Twenty-five years ago, when Congress first acted to strengthen public transit, the consequences of federal neglect had become ominous. Public transit systems were failing across the country. Transit facilities were in disrepair and inefficient. Fares were skyrocketing, ridership was plummeting.

In the intervening years, mass transit has become an increasingly vital source of mobility for communities of all sizes—based on a strong partnership between government and the private sector. Mass transit now serves millions of Americans with a wide array of services—from the heavy rail transit that is expanding in our largest cities, to bus service in our medium-sized cities, to van-based paratransit services that meet special needs in smaller communities.

Despite past improvements, the unmet need for modern, efficient public transit is even greater today than it was 25 years ago. The Surface Transportation Efficiency Act of 1991 now before Congress provides an important opportunity to begin closing that gap. The Committee bill is intended to be a key title in that legislation, fitting well with the work of the Committee on Environment and Public Works and other committees of the Senate.

For the first time in thirty-five years, Congress is able to consider the future of federal transportation policy without the cost burdens of completing the interstate highway system. The nation now has that vital asset. It needs to be preserved.

The interstate commitment was based on the Eisenhower era dream that we could achieve nationwide mobility of building bigger and better roads to accommodate more and faster motor vehicles. We now also know that the dream of thirty-five years ago can carry us only so far—and then it creates severe problems. In our major economic and population centers, more highways do not bring mobility—new highways tend to generate new congestion.

As Jessica Mathews, of the World Resources Council wrote, "We now know that new roads generate more traffic than they serve. * * * We now know that we cannot build roads fast enough to meet demand under a highways-only policy." [The Washington Post, May 12, 1991]

The costs of highway construction are far greater than the $129 billion in direct spending on the interstate system.

We pay the cost through increasingly intolerable traffic congestion in the nation. Main roads are choked to capacity in peak hours, and America's workforce spends millions of hours each day in traffic gridlock. The General Accounting Office (GAO) has noted that congestion costs Americans annually (GAO, May, 1991). According to the Urban Mass Transportation Administration, if just one out of every five single drivers switched to a higher occupancy mode, congestion costs would be reduced by 60%.

We pay the cost through rising and atrocious air pollution in America. Some 112 million Americans live in areas where the air quality standard is exceeded. Two recent studies by the University of Southern California made the shocking finding that "children rasied in the South Coast Air Basin already had 10 to 15 percent less lung function by the time they were in the second grade than youngsters growing up in relatively smog-free Houston." [LA Times, April 29, 1991]

We pay the cost through over-reliance on foreign oil. The Department of Energy reported that in the first 11 months of 1989, the cost of imported energy—primarily oil—represented 38.5% of the $102.4 billion trade deficit. Although attempts to increase fuel economy must continue, achieving real reductions in oil dependency will require alternatives to a one-person-per-vehicle transportation system. Each additional person who chooses to commute by car requires an extra 200 gallons of gasoline per year. Increasing transit ridership by 10% in the five largest metro areas would save 85 million gallons of gas a year. A bus with as few as seven passengers is more fuel efficient than the average commuter automobile.

These problems will only worsen if we continue current transportation policies. Although some states may not yet have a highway-related crisis, many do, and the trends are ominous throughout the country.

Continuing with a narrow-viewed highway policy will lead the country up a blind alley. The Senate must find a better path. Improved and expanded public transit must be a larger part of the country's transportation.

The Committee believes that this transportation bill can move the country toward a more balanced, integrated and efficient transportation system. It can help link highways, mass transit, ports, railroads and airlines. It can help move goods more efficiently within urban centers and to distant markets. It can help people move quickly to and from home, jobs and other destinations.

Overview of the Committee Bill

The Committee bill would make a number of important changes in transportation policy.

First, the bill would provide comparable funding increases for highways and public Transit. Over the past decade, federal aid to public transit was cut from $4.6 billion in fiscal 1981 to $3.2 billion today. After inflation, that's a cut of 50 percent.

The Committee is concerned that the Administration's transportation proposal would expand highway spending by 39 percent but would hold funding for public transit essentially flat. The Administration bill suggests a token increase in the last year of the authorization, but after inflation, mass transit would continue to be cut for five more years.

The Committee has also not accepted the President's scheme for running down the trust fund balance over a five or six year period. The Committee believes it would be unwise to take an approach that could throw transit funding into grave uncertainty within a few years. The Committee bill will provide transit with sources of funding that can be sustained on into the future.

The Committee bill would provide real growth in transit funding—equal to the increase provided for highways. Both the discretionary grant program and the formula grant programs would be funded partly out of the transit account of the highway trust fund and partly out of general funds. This would dramatically increase the payments that many states would receive from the mass transit account.

Second, the bill would open up the highway trust fund so that highway and transit dollars can be used to improve mobiity in the most efficient way—whether that is with roadways, transit, or some multi-modal solution.

The Committee recognizes that, in some areas, new roads may be the answer. But in many of the country's most populous areas, mobility would be improved much more efficiently through investment in better mass transit—or perhaps through ramp-metering, HOV lanes, or car pool programs. Metropolitan areas would be able to choose the best use of scarce federal transportation assistance.

The Committee shares the concerns of many who are uneasy about funding flexibility because, historically, the highway interests have had such dominant power in many states. But the Committee believes its bill provides flexibility where it is most needed—in those metropolitan areas that are struggling with severe problems of congestion and air pollution. And the bill does so with adequate protection so that funds will not be drained from basic transit needs.

Third, the Committee bill would help the country get a bigger "bang" of transportation service for every transit buck that is made available. One section of the bill would improve full funding contracts to stretch available funding over more projects and enable transit operators to finance and manage long-term projects more efficiently. Another section of the bill would permit operators to enter into long-term purchasing agreements for buses and rail cars to provide fleets of compatible vehicles that can be operated and maintained more efficiently. Yet another section of the bill would provide new authority that is needed for "turnkey" procurement of high technology transit systems.

Fourth, the bill would address the differing needs of mass transit systems across the country. Some cities have a great need to build new transit systems—for them, the bill would improve capital project management. Other cities have mature transit systems and need assistance in operating, modernizing and extending their facilities—for them, rail modernization would be distributed on a more predictable formula. All cities need adequate bus service—for them, funding for bus procurement would be increased. The bill reflects the needs of smaller communities and rural areas—funding for rural transit would be more than doubled.

Fifth, the bill would give priority to maintenance of our existing infrastructure. The Senate's highway title provides protection of the interstate investment and maintenance of our bridges. The public transportation title will also provide for adequate maintenance of our public transportation services.

Sixth, the Committee bill would give metropolitan areas responsibility to develop comprehensive strategies for meeting their long term transportation needs. Integrated transportation planning is especially important in areas with severe air pollution and traffic congestion. But the Committee believes that will only work if metropolitan areas are allocated a fair share of federal transportation aid and are given authority to select projects for new or expanded capacity. Projects will be approved through a comprehensive local decision making process in which states and other interested parties participate. This authority to approve capacity expansion projects need not be given to every metropolitan area, but the bill will give that authority where it is needed: in those areas that are trying to carry out a comprehensive strategy for reducing severe congestion and air pollution.

Seventh, the bill would remove the bias against the choice of the most efficient use of federal transportation funds. Federal policy now stacks the deck heavily against public transit. Under the Committee bill, metropolitan areas would have a "level playing field" when they choose among transportation modes. Application procedures will be more standardized.

Extra transit requirements for alternatives analysis and some other application steps would be waived if Section 3 funds would be less than one-third of a project's cost—and federal highway funds could be used to reduce funds required under Section 3.

State and local match requirements would be more uniform across alternative transportation solutions. The bill would apply the highway match requirements to public transit projects—that is a 75/25 match for new capacity; and an 80/20 match for maintenance activities and more efficient use of existing systems.

Finally, the bill would reinforce the Clean Air Act, the Americans with Disabilities Act and other important national objectives. The Committee bill would prevent some provisions of the Clean Air Act from having the unintended effect of diverting federal transportation assistance away from areas of the country that have the greatest congestion. The bill would also encourage research, testing, and technical assistance in implementing low-cost transportation demand management strategies that can improve air quality while reducing traffic congestion. And the bill would prevent some requirements of the Americans with Disabilities Act from having the unintended effect of weakening transit systems that are already financially strained.

Committee Deliberations

The Committee bill in reporting with amendments to "The Federal Transit Act of 1991" (S. 1194), introduced by Senators Alan Cranston, Donald Riegle and Alan Dixon on May 24, 1991. The Committee bill incorporates proposals in the Administration's "Surface Transportation Assistance Act of 1991" (S. 610). And it includes provisions of "The Federal Mass Transportation Act of 1991" (S. 1160), introduced on May 23, 1991 by Senators Alfonse D'Amato and Arlen Specter.

The Senate Committee on Banking, Housing and Urban Affairs held a mark-up of the bill on June 6, 1991. The Committee adopted by voice vote a package amendment number 17 offered by Senator Cranston. The package included 12 amendments suggested by Senators Donald Riegle, Paul Sarbanes, Alan Dixon, and Bob Graham, as well as by the Administration and others. The Committee adopted by voice vote amendment number 1 offered by Senator Connie Mack to change the census data used in distribution formulas from 10 years to four years by voice vote. The Committee also adopted by voice vote amendment number 5 by Senator Bob Graham to have 1990 census figures applied to fiscal year 1992 formula allocations. The Committee then ordered the bill favorably reported by unanimous voice vote.

Explanation of the Committee Bill

TITLE AND AGENCY NAME CHANGE

The Committee bill would amend the name of the underlying law from the "Urban Mass Transportation Act of 1964" to the "Federal Transit Act."

The Committee bill would amend the name of the Urban Mass Transportation Administration to the "Federal Transit Administration."

FINDINGS AND PURPOSES

The Committee bill would add a new finding that significant improvement in public transportation is necessary to achieve national goals for improved air quality, energy conservation, international competitiveness and mobility for the elderly, persons with disabilities and the economically disadvantaged in urban and rural areas of the country.

The Committee bill would also adopt the objective of providing State and local governments with the financial resources to help implement national goals related to improved air quality, international competitiveness and mobility for the elderly, persons with disabilities and economically disadvantaged persons.

AUTHORIZATIONS

Federal transit funding has been cut from $4.6 billion in 1981 to $3.2 billion today. After inflation, that is a cut of more than 50 percent. During this period, the disparity between transit and highway funding has grown considerably. In 1981, the federal highway program was twice the size of the federal transit program. Today, it is five times as large. The Committee noted that the Administration's proposal would increase highway funding by nearly 40% over the next five years but would provide virtually flat funding for transit—which would mean a continued reduction in real terms. The Committee strongly believes that these funding inequities between highway and transit should not be further exacerbated.

The Committee bill would authorize slightly more than $21 billion over the 5-year period covered by the bill. Authorization levels increase at the overall rate proposed by the Administration for total transportation funding—an average annual increase of about 7%. Thus, transit programs would receive funding increases comparable to those proposed for highway programs.

UMTA Administrator Brian Clymer, in testimony before the Senate Subcommittee on Housing and Urban Affairs, estimated that the transit need justifies a $7.7 billion annual program. Other estimates, by the American Public Transit Association, indicate that an annual federal transit investment of $11 billion would be necessary adequately to maintain and expand existing service, meet the growing demand for new service and fulfill the requirements of the Americans with Disabilities Act and the Clean Air Act Amendments of 1990.

The Committee recognizes that the authorization levels proposed in this bill will not fulfill the need for transit investment. The recommended levels do, however, reflect a reasonable expectation of the availability of general funds and a responsible plan for spending balances in the transit trust fund. The Committee has also worked to improve programs, throughout the bill, to maximize the benefit of funds that are made available.

The Committee bill proposes two significant changes to spending from the Mass Transit Account of the Highway Trust Fund.

First, the Committee bill would restructure funding sources to support all transit programs with a blend of funding from the trust fund and general funds. Under current law, the section 3 new starts, rail modernization, and bus discretionary programs, the section 16(b)(2) elderly and handicapped transit program and the section 8 planning program are funded from the mass transit trust fund. Section 9 and 18 formula programs are funded primarily from general revenues. Historically, the formula programs funded from general revenues have experienced larger cuts in the appropriations process than have programs funded from the trust fund. The bill would revise this practice and use the Transit Account of the Highway Trust Fund to finance about 60% of the formula grant programs. This change benefits most states by increasing the amounts they receive from the Transit Account and placing formula and discretionary grants under equal budgetary pressures in the appropriations process.

Second, the Committee bill would substantially increase the amount of overall transit funding drawn the Transit Account of the Trust Fund. As of January 1991, the mass transit account of the trust fund had an unexpended balance of $7.156 billion and an uncommitted cash balance of $3.57 billion. The Administration's bill proposed shifting funding for mass transit programs entirely to the trust fund. Under that scenario, only $425 million in uncommitted balances would remain in the trust fund at the end of this authorization bill. Congress would then have to scale back mass transit assistance sharply, increase fuel taxes or move mass transit back as a claim on general revenues.

The Committee bill would keep payments from the Trust Fund at a level that permits stable, long-term program operation without depleting the Transit Account. A larger portion of the overall transit program would be funded from the trust fund; the current 43% of the transit program funded from the trust fund would be increased to 53% in fiscal year 1992, and rise to 57% in fiscal year 1996. But, spending from the trust fund would not exceed revenues received from taxes and interest accruing to the trust fund in each year.

MASS TRANSIT ACT

[Dollars in thousands]

	Fiscal year 1991	Admin 1992	Fiscal year— 1992	1993	1994	1995	1996
Sources of funds:							
Sec. 3 Capital Grants:							
Trust fund	$1,200,000	NA	$535,000	$580,000	$680,000	$750,000	$835,000
General funds	213,100	0	775,000	780,000	798,600	828,900	850,400
Subtotal section 3	1,413,000	NA	1,310,000	1,360,000	1,478,600	1,578,900	1,685,400
Formula grants and other:							
Trust fund—contract	200,000	NA	1,070,500	1,220,000	1,300,000	1,450,000	1,565,000
Trust fund—appropriation	0	0	450,000	525,000	550,000	400,000	300,000
General funds	1,581,483	0	990,000	862,000	801,000	981,000	1,160,000
Subtotal formula and other	1,781,483	NA	2,510,500	2,607,000	2,651,000	2,831,500	3,025,000
All Grants:							
Trust fund—contract	1,400,000	$350,000	1,605,500	1,800,000	1,980,000	2,200,000	2,400,000
Trust fund—appropriation	0	2,899,499	450,000	525,000	550,000	400,000	300,000
General funds	1,794,583	0	1,765,000	1,642,000	1,599,600	1,810,400	2,010,400
Total FTA funds	3,194,583	3,249,499	3,820,500	3,967,000	4,129,600	4,410,400	4,710,400
Uses of funds:							
Sec. 3 capital grants:							
Rail modernization	455,000	(Sec 9)	524,000	544,000	591,440	631,560	674,160
New starts	440,000	300,000	524,000	544,000	591,440	631,560	674,160
Bus	220,000	(Sec 9)	262,000	272,000	295,720	315,780	337,080
ADA and clean air	0	50,000	0	0	0	0	0
Subtotal sec. 3	1,115,000	350,000	1,310,000	1,360,000	1,478,600	1,578,900	1,685,400
Formula grants: Section 9 and 9B							
Rail modernization	(sec 3)	600,000	(sec 3)	(sec 3)	(sec 3)	(sec 3)	(sec 3)
Bus	1,156,427	1,446,106	1,330,032,	1,382,219	1,507,265	1,610,313	1,720,820
Fixed guideway	578,214	419,802	665,016	691,109	753,633	805,157	860,410

Subtotal section 9 and 9B	1,734,641	2,465,908	1,995,048	2,073,328	2,260,898	2,415,470	2,581,230
Sec. 16(b) elderly/handicapped	35,000	45,000	58,508	60,705	63,144	67,356	71,856
Sec. 18 rural	65,359	89,000	127,343	132,340	144,313	154,179	164,759
Subtotal formula	1,835,000	2,599,908	2,180,899	2,266,374	2,468,355	2.637,005	2,817,845
Planning and research:							
MPOs	45,000	(state)	52,657	54,635	56,830	60,620	64,670
State program		62,151	11,702	12,141	12,629	13,471	14,371
Transit cooperative		(state)	11,702	12,141	12,629	13,471	14,371
National program	8,000	31,075	35,105	36,423	37,886	40,414	43,114
University centers	5,000	6,000	5,000	5,000	5,000	5,000	5,000
Rural: RTAP	5,000	(TP&R)	5,851	6,071	6,314	6,736	7,186
Administrative Expenses	32,583	40,365	47,586	49,373	51,357	54,783	58,443
Interstate transfer	149,000	160,000	160,000	164,843	0	0	0
Total FTA program	3,194,583	3,249,499	3,820,500	3,967,000	4,129,600	4,410,400	4,710,400

IMPROVING CAPITAL INVESTMENT IN TRANSIT

Investment in needed transit. A principal objective of the Committee bill is to accelerate efforts to improve transit systems with a national commitment that corresponds to the urgent challenge to increase mobility, clean the air and reduce reliance on imported oil.

Federal support for transit throughout most of the past decade has fallen far short of the need. Federal transit assistance was cut by 50 percent in real terms. Opponents of federal transit assistance have argued that transit should be a state and local responsibility and that the federal interest can be limited to interstate and interregional transportation. The Committee finds that to be specious reasoning. Since interstate highways attract heavy commuter traffic in our major economic and population centers, the ability of federal highways to offer interstate mobility is profoundly degraded when we fail to provide adequate and balanced transportation systems using all modes of transportation, including transit, to relieve congestion. Achieving that integrated transportation system must be the shared responsibility of all levels of government.

Breakdown of existing procedures. Current federal transit procedures are inadequate to support the investment that will be needed over the next decade. The system is breaking down. Problems with the Section 3 new start program are symptomatic of obstacles to sound rail modernization and bus investment as well.

Section 3 new start applications now in preparation lay claim to current funding levels for the next quarter century. The Administration itself supports funding for twelve projects that have already completed alternatives analysis and are in final stages of development. Those projects alone will require total federal assistance of $2.53 billion, or three-quarters of a billion more than the Administration has requested for the next five years. The Administration estimates that forty projects in the new starts pipeline could require federal assistance in excess of $5 billion. Another $13 billion in projects are currently in systems planning.

In recent years, UMTA has tried to cope by both creating administrative hurdles to delay project approval and chopping large projects into small segments that can be accommodated within available funding levels. Both of these mechanisms hinder the expansion of transit and run up long-term project costs. Time is running out on delaying tactics as an increasing number of important transit projects approach the time when construction can begin.

Faced with these obstacles, cities struggling with air pollution and congestion have sought with growing desperation to expedite federal project approval. More and more seek to circumvent UMTA procedures be getting advance earmarking of funds by Congress. At best that can be a solution for only a few projects—not everyone can jump to the head of the line. And advance earmarking works against the effective use of transit funds provided by Congress. Scarce transit dollars that are set aside for one project often sit idle for years while the project clears the hurdles for final approval. In the meantime, funds are denied to meritorious projects that are ready to begin construction.

Important new management tools. The Committee expects the Federal Transit Administration forcefully to resist project proposals that are unsound public investments. But the Committee intends that, during this authorization cycle, the Federal Transit Administration will become a more effective partner for transit and will accelerate sound transit projects efficiently through the completion.

The Committee bill provides the Federal Transit Administration with several important new tools to fulfill this responsibility. The bill has several provisions to improve project management and financing so that transit operators can more quickly and cheaply implement capital investment called for in their transportation strategies. These reforms are intended to benefit all major tansit investment, including new start, rail extension, rail modernization and bus investment. Procedural reforms in the Committee bill conform with federal budgetary controls and will make more effective use of scarce federal transit assistance.

In general, the Committee bill enables the Federal Transit Administration and transit operators better to manage the long-term commitments that are required for major transit investment. Several mechanisms are provided or improved as noted in the following sections.

Full Funding Contracts. UMTA administratively has developed full funding grant agreements or full funding contracts (FFCs) with the principal objective of limiting federal obligations with regard to major projects. Under current FFC practice, UMTA and a grantee enter into a contract that (1) obligates a specific amount of federal assistance, often for the first year only, and (2) includes a commitment to obligate additional amounts contigent upon the availability of funds in future years. The contract commits to grantee to complete a project segment within a specified time period, for a specified cost. The grantee is required to complete the project with the grantee's own funds if federal appropriations are not available. FFCs are a useful tool, but they are directed one-sidedly to limitation of federal expenditures and are not well designed to enable grantees to manage long-term projects most efficiently. The force grantees to horde federal transit funds both in anticipation of and after receipt of an FFC. FFCs are limited to the remaining authorization in the most recent authorization bill, so they become less and less useful toward the end of an authorization period.

The Committee bill would authorize full funding contracts in statute, as requested by the Administration, with important refinements. The Committee bill would make it clear that the Secretary is responsible for structuring an FFC not only to establish the terms and conditions of federal financial participation in a project and the maximum amounts of federal financial assistance for the project, but also to facilitate efficient and expeditious management of an approved project through to completion in accordance with federal law. The Committee intends that the FTA become a full partner with the grantee in providing improved transit services.

A central objective of the Committee bill is to enable FTA in the future to enter into the longer-term commitments that are needed for grantees to manage major capital investment projects in a more businesslike way than is possible under current federal procedures.

Current practice tends to limit federal approval to the smallest feasible project segment. The Committee bill would enable a grantee to get approval for orderly implementation of an optimum economic project segment, when that would in the long run be more cost-effective and provide significant benefits of congestion relief and air pollution control. In no event could federal approval for a fixed-guideway project be given for less than an operable segment.

Under the Committee bill, as under existing law, any federal funding obligation would be limited to amounts that are provided in advance in law. The Committee fully expects and intends the continuation of current practice under which such amounts are provided in advance in appropriations acts, either as obligational limits on contract authority or as appropriations from the Highway Trust Fund or general funds. The Committee bill explicitly provides for that limitation, and nothing in the Committee bill has the effect of permitting obligation of budget authority in excess of that limitation.

Existing law recognizes that orderly development and implementation of major capital investment requires federal commitments in addition to the binding obligation of funds. These commitments have been provided in various forms through letters of intent. The administration has also increasingly relied on full funding contracts, sometimes called "full funding grant agreements", to formalize the necessary commitments, which under current practice may include a commitment to obligate funds in future years subject only to the availability of funds in those years. The Committee agrees with the Administration that the statute should explicitly authorize full funding contracts along with letters of intent.

The Committee bill makes it clear that (1) full funding contracts can obligate specific amounts of budget authority and (2) they may also make conditional commitments to obligate specified additional amounts of budget authority that will be needed in the future to complete the approved project covered by the full funding contract. For example, if a fully approved project is to take six years to complete, the full funding contract could obligate budget authority sufficient for, say, the first three years and include a contingent commitment to obligate in year three an additional amount needed to complete the project.

The Committee notes that contingent commitments explicitly authorized in the bill would not be different in kind from the contingent commitments that have been provided under administrative practice in full funding grant agreement. The importance difference is that the Committee bill would (1) permit the contingent commitments to cover a significantly longer period of time to accommodate more effective management of capital projects within annual budgetary constraints and (2) use of limitation on the volume of outstanding contingent commitments that more reasonably reflects Congressional intent that sound transit projects be developed in a stable, ongoing review process and carried out expeditiously.

Under the Committee bill, federal reimbursement could be made over a longer period than is needed for project construction, if that is needed to complete a large project efficiently. These conditional commitments would be subject only to the future availability of budget authority provided in law. That is, if a future Congress has not provided sufficient budget authority for projects of the type covered by the letter of intent, the federal government would not have a legal obligation to provide the funding. Any contingent commitment, however, would be fulfilled so long as the budget authority has been provided in advance of that date.

This provision of the Committee bill would provide FTA with a project management tool similar to the one provided to FAA in the Airport Improvement Act of 1987. That act authorizes FAA to support large, multi-year airport projects that could not be accommodated within funding levels available annually. FAA letters of intent now allow airport authorities to begin work in a timely and efficient manner using funds provided locally or borrowed in the capital markets. The letter of intent makes a contingent commitment to provide federal reimbursement over several years. This system gives the FAA the ability to manage a volume of large projects in a sound manner. The FAA letter of intent does not create a legal obligation of federal funding. Instead, it formally states FAA's intention to fund a specific project under specified conditions in the future so long as funds are appropriated and available for the relevant activity.

The letters set out a proposed schedule of federal expenditures based on FAA's estimate of funding that is reasonably likely to be made available in the future. The Committee believes that such a mechanism is even more needed for transit projects, which often require even longer periods of time and larger amounts of financing for implementation.

The Committee is aware that FAA policy limits projected reimbursements, under all outstanding letters of intent, in any given year to 50 percent of funding that is reasonably estimated to be made available in that year. This limitation is used so that in future years the administration would not find its flexibility unduly constrained by contingent commitments made in prior years.

The Committee bill provides that project costs eligible for reimbursement under a full funding contract would include any interest or other financing costs of efficiently carrying out the project or a portion of the project. The bill specifies that eligible financing costs could not exceed the costs of the most favorable financing terms reasonably available for the project at the time of borrowing. This limitation is intended to promote prudent financial management decisionmaking.

The Committee intends that the Secretary administer these provisions, together with other project management reforms provided in the bill, in a way that greatly reduces the need for operators to seek advance earmarking of funds for sound transit projects.

Early systems work agreements. The Committee bill provides for early systems work agreements as an additional mechanism through which FTA could permit a grantee to proceed with procurement of land, long-lead-time system elements for which specifications are determined, and other activities that are appropriate to avoid delays or other inefficiencies in project management that would increase overall project costs.

The Secretary could only enter into an early systems work agreement if a record of decision pursuant to the National Environmental Policy Act of 1969 (NEPA) has been issued on the project and the Secretary determines there is reason to believe (1) a full funding contract for the project will be entered into and (2) the terms of the early systems work agreement will promote ultimate completion of the project more rapidly and at less cost.

An early systems work agreement would obligate an amount of available budget authority and would provide for reimbursement of preliminary costs of project implementation specified in the agreement. Such costs could include land acquisition, timely procurement of system elements for which specifications are determined, and other activities that the Secretary determines to be appropriate to facilitate efficient, long-term project management. The Secretary would establish in the agreement the effective date after which local costs are eligible for federal reimbursement, and such date could be prior to compliance with NEPA so long as local costs incurred otherwise meet relevant federal requirements.

Any interest or other financing costs of carrying out the early systems work agreement efficiently would be considered eligible project costs, except that eligible financing costs could not exceed costs of the most favorable financing terms reasonably available for the project at the time of borrowing. If an applicant failed to implement the project for reasons within the applicant's control, the applicant would be required to repay all federal payments made under the early systems work agreement plus reasonable interest and penalty charges as specified in the agreement.

The Committee intends that these conditions will make the early systems work agreements a valuable tool for reducing the capital costs of transit in many circumstances, but will ensure that these agreements are used only in projects that can reasonably be expected to proceed.

Limitation on letters of intent and contingent commitments. The Committee bill ensures that the volume and content of contingent commitments in full funding contracts and early sytems work agreements are consistent with clearly expressed Congressional policy. It does so in a way that is a significant improvement over current practice.

Existing statute limits the total estimated amount of future Federal obligations covered by all outstanding letters of intent to the remaining authorization for the relevant activity under section 3, less an amount the Secretary estimates to be needed for other grants. This limitation rests on the assumption that Congressional support for transit is expressed by the total amount authorized in the most recent transit authorization bill, which typically includes 5 years of authorizations.

This measure of Congressional intent has had unintended and perverse consequences that undermine efficient development and implementation of transit service that Congress clearly does support. Under current practice, the limitation equals the total 5-year authorization at the start of the first year; then, with each passing year, the limitation sharply declines until it hits zero later in the authorization period. As a result, a project under consideration in the first year or two of an authorization cycle can easily be accommodated. But sound project proposals coming to fruition in the final two or three years of an authorization cycle, cannot be given equal treatment. Toward the end of an authorization cycle, meritorious projects are often forced to wait for months until a new authorization bill is passed and the window of opportunity springs open once again. Federal transit officials now operate as if Congress is likely to terminate federal transit assistance abruptly at the end of the authorization cycle, although Congress has never indicated an intention to do so. To the contrary, Congress has repeatedly acted in support of transit. The difficulty and cost of local response to urgent transportation needs are greatly increased by federal programs that arbitrarily go through start and stop cycles.

The Committee bill recognizes that Congressional support for transit is expressed not just through reauthorization of transit programs. Important evidence that Congressional intent is to provide stable federal support for capital investment in public transit is the creation of the special Mass Transit Account within the Highway Trust Fund in 1982, financed with dedicated gas tax revenues. As recently as 1990, in the Omnibus Budget Reconciliation Act, Congress increased tax receipts into the Transit Account.

The Committee bill therefore would limit the value of outstanding FTA letters of intent and contingent commitments in full funding contracts to (1) the total amount authorized for Section 3 or (2) 50 percent of the uncommitted cash balance remaining in the Mass Transit Account of the Highway Trust Fund, whichever is greater. The uncommitted cash balance includes the amounts received in the Mass Transit Account from taxes and interest earned in excess of amounts that have previously been obligated or committed. The total amounts covered in letters of intent, full funding contracts or early systems work agreements for a given use (i.e., new starts, rail modernization or bus) would be subject to the total of authorizations for such use, whether provided as contract authority or as authorizations of appropriations. Under this limitation, even in the extremely unlikely case in which a future Congress terminates subsequent transit assistance, Congress would have provided more than enough in the Mass Transit Account to cover all FTA commitments outstanding at that time.

This change in limitation would enable FTA to consider and approve projects much more consistently over time. As an illustration, under current practice, authorization levels in the Committee bill would permit FTA, right after enactment, to issue outstanding letters of intent and full funding contracts for new start projects up to a maximum of almost $3 billion, the total of the 5-year authorization for Section 3 new starts, less what is estimated to be needed for other grants. Over the course of the authorization cycle, the maximum volume cap on project commitments would fall each year to about $2.4 billion by fiscal year 1993, to $1.9 billion by fiscal 1994, to $1.3 billion by the end of fiscal year 1995, to $1 billion by fiscal 1996, and to zero sometime during the last year of the authorization. In practice, these illustrative figures would be signficantly affected by the actual pattern of FTA commitments.

The following figures illustrating the intended effect of the bill, show that FTA would work under a more stable ceiling as it considers projects that are ready for approval. At the Committee's request, the Administration projected uncommitted cash balances remaining in the Mass Transit Account for future fiscal year as a result of the recommended authorization levels as follows: $4.1 billion at the end of fiscal year 1992, $4.5 billion at the end of fiscal year 1993, $4.8 billion at the end of fiscal year 1994, $4.9 billion at the end of fiscal year 1995, and $4.5 billion at the end of 1996. The Committee bill's limitation on letters of intent and contingent commitments (at the higher of the remaining authorization or 50 percent of the transit account's uncommittee cash balance) would be roughly as follows: starting at almost $3 billion as under current law, and declining as under current law to $2.4 billion in fiscal 1993; but then leveling out at about $2.4 billion in fiscal 1994, $2.5 billion in fiscal 1995, and $2.3 billion in fiscal 1996. Note that the Committee bill does *not* propose that the remaining uncommitted cash balance be allocated among different section 3 programs (i.e., new starts, rail modernization and bus). The full amount available within the cap would be available for whatever project is under consideration.

Advance Construction Contracts. The Committee bill would amend the existing statute to avoid problems now inherent in advance construction contracts, which inappropriately force grantees to bet on inflation. Advance construction contracts (ACCs) were authorized in the 1987 Surface Transportation Act to permit grantees to proceed with approved projects using their own resources. UMTA agrees to reimburse the grantee for expenses and debt service up to the amount of inflation.

The authorization of ACCs has proven to be less useful than intended primarily because existing statute forces grantees to bet that inflation will be higher than their debt costs and unanticipated cost increases. Few grantees are willing to enter into an ACC on those conditions since, if they guess wrong on future inflation, they must cover any losses.

The Committee bill would make the ACC mechanism more workable by limiting federal reimbursement for financing costs to the most favorable interest terms that are reasonably available to the project at the time of borrowing. This provides a powerful incentive for prudent financial management without exposing grantees to undue risks in the event inflation behaves in ways that are not anticipated by market forces at the time of borrowing.

Turnkey Systems Procurement. The Committee bill would authorize the Secretary to approve system procurement on a "turnkey" or "Build-Operate-Transfer" (BOT) basis. Under turnkey procurement, a grantee would contract with a vendor to (1) build a transit system that meets specified performance criteria, (2) operate the system for several years to ensure acceptable performance of the technology; and then (3) transfer the sytem to the operator. It is a method used increasingly by municipalities for procurement of high technology systems, for example, by U.S. cities for major solid waste and energy projects, by airports for people-mover systems, and by the European cities for major transit projects.

Conventional transit procurement regulations, assume that a grantee will do the basic systems engineering itself, setting specifications for each component and assembling the parts into a final operating system of the grantee's own design. Conventional procurement regulations require completion of an environmental impact statement and engineering prior to vendor selection.

These procedures block procurement of automated guideway systems, such as are being considered for Honolulu and Houston. These systems involve a package of several closely integrated technologies and are vendor-specific, that is each vendor typically uses a different technology. As a result, environmental impact analysis and engineering cannot be completed until the technology (and thus, de facto, the vendor) is selected.

The Committee bill directs the Secretary to develop regulations for a turnkey procurement process. The bill would allow the solicitation for a turnkey system project to be conditionally awarded before all Federal requirements have been met so long as the award is made without prejudice to the implementation of those Federal requirements. Under turnkey regulations, therefore, section 13(c) labor protections and other federal requirements would apply to the completed project. Federal financial assistance under the FT Act would be made available when the recipient has complied with relevant Federal requirements.

The Secretary is expected to develop appropriate regulations in a timely manner. In the meantime, while those regulations are being developed, the Secretary would be authorized to select a maximum of 4 projects under this paragraph and temporarily to waive requirements of law to the extent that such waiver is appropriate to achieve efficient and expeditious implementation of those projects.

Multi-year Procurement of Rolling Stock. The Committee bill would authorize a transit operator to enter into multi-year agreements for the purchase of rolling stock, such as buses and rail cars, and replacement parts. The purpose of this reform is to permit a reduction of overall procurement and maintenance costs through greater standardization and more orderly replacement of fleets. The agreements could provide for an option to purchase additional rolling stock or replacement parts for a period not to exceed 5 years from the date of the original contract.

The Committee considered favorably a proposal to amend existing statute with language explicit authority for "buy-back" procurement, under which an operator could award a contract to other than the low bidder so long as the recipient pays the extra cost with non-federal funds and Federal reimbursement is made on the basis of the low bid. The Committee did not include this amendment after being assured by the Administration that existing law permits operators to achieve this by using negotiated procurement procedures. The Committee is concerned that many transit operators seem unfamiliar with ways in which currently sanctioned procurement procedures can be used to achieve the long term savings of maintaining a standardized fleet of high quality vehicles. The Committee expects the Secretary to inform all operators of these procedures and, if necessary, to streamline the procedures so that they are more workable for more operators.

The Committee bill would also authorize two or more recipients to cooperate for the joint procurement of vehicles. The Secretary is expected to provide streamlined procedures so that rural transit operators and smaller communities can efficiently use such joint procurement procedures.

COMMUTE TO WORK BENEFITS

The Committee bill would assert Congressional findings regarding commute-to-work benefits. Under the existing tax code, the use of alternative forms of transportation—such as mass transit, and shared-ride services—is discouraged by inequitable tax treatment. Although employers may provide unlimited tax-exempt parking benefits to employees, transit and vanpool benefits are limited to $15 month. If transit benefits exceed $15 per month, then the entire amount of benefits (including the first $15) becomes taxable. This tax policy is inconsistent with other national objectives including the need to conserve energy, reduce reliance on energy imports, relieve congestion and reduce air pollution. This section would affirm the need to provide equal benefits to employees commuting via private automobile or public transit.

RAIL MODERNIZATION FORMULA

The Committee bill would make two fundamental amendments to the rail modernization program. First, the bill would establish a statutory formula for the distribution of rail modernization funds; under existing law, the program is distributed on a discretionary basis. The creation of a statutory formula will bring a predictability and certainty to the distribution of rail modernization funds that has been absent since the inception of the program. It is expected that the move to guaranteed apportionments will also enable transit properties to (1) gain greater access to private financing and (2) carry out capital projects in a more timely fashion.

Second, the bill would expand the coverage of the rail modernization program to include historic rail systems as well as those "new" fixed guideway systems confronting the need for greater modernization. Historic rail systems are presently the exclusive recipients of rail modernization monies. These systems—generally inherited by public authorities after years of private ownership and neglect—continue to have large capital needs and, in the Committee's estimate, deserve to receive the bulk of federal modernization dollars. Yet many "new" fixed guideway systems are also approaching an age where major capital investments are needed if significant deterioration is to be avoided.

The Administration proposal would have permitted all "new" fixed guideway systems to participate under the rail modernization program. The Committee bill, by contrast, would define "eligible systems" as including only historic rail systems and other fixed guideway systems in revenue service for more than ten years.

The Committee strongly believes that the rail modernization program should remain well-targeted and well-defined. The primary purpose of the program would continue to be to fund large modernization projects for which section 9 funding is inadequate. That purpose would be undermined by allowing the participation of "new" systems that do not have substantial modernization needs. Such systems would most likely use rail modernization funding for routine maintenance activities. The existing distinction between rail modernization and Section 9 activities would, thereby, be lost—weakening the ability of supporters for both programs to argue persuasively for continued or expanded funding.

The Committee has chosen 10 years of revenue service as a convenient proxy for modernization needs. The Secretary would have the discretion to permit fixed guideway systems that have not been in revenue service for such period to participate—on a year-by-year basis—where such systems demonstrate that they have modernization needs that cannot adequately be met by section 9 funding.

The Committee formula adopts, with several modifications, the three-tier distribution system recommended by the American Public Transit Association. The Committee notes that APTA conducted extensive negotiations and discussions among all affected transit properties in devising its recommended formula. The new statutory formula would balance the competing needs and claims of historic and "new" fixed guideway systems.

The formula would work as follows:

> *Tier One—Hold Harmless for Historic Rail Systems.* In a given fiscal year, the ten historic systems would receive all the funds up to an appropriation of $455 million, the amount appropriated in fiscal year 1991. The ten historic systems would include those systems that (1) have received rail modernization funding in at least two of the five fiscal years 1986–1990; and (2) receive in fiscal year 1991 at least 0.5 percent of the funding made available under the Section 9 rail tier. Systems qualifying under this definition include: Boston, Chicago, Cleveland, Maryland commuter rail, New York City, Northeastern New Jersey, Philadelphia, Pittsburgh, San Francisco and Southwest Connecticut.

Funds would be distributed as follows:

> 41 percent of the total "hold harmless" amount would be set aside for New York and Southwest Connecticut. These funds would be further divided so that New York would receive 35 percent of the total amount and Southwest Connecticut would receive 6 percent.
>
> 2 percent of the total amount would also be set aside for Pittsburgh.
>
> The remainder of the funds would be distributed primarily on an historic share basis, recognizing in a fair and equitable manner the proportion that each historic system received under the program. Each remaining historic system would generally receive, on an annual basis, the higher of (a) its 3-year share (i.e. averaging funds received from fiscal years 1988 through 1990) or (b) its 7-year share (i.e. averaging funds received from fiscal years 1984 through 1990). The Secretary would make such pro rata adjustments as are necessary in applying this allocation. Each of these systems would be assured, at a minimum, the amount it would have received under the Section 9 rail tier formula.
>
> *Tier Two—50/50 Allocation between Historic Rail Systems and "New" Fixed Guideway Systems.*—The first $70 million in appropriations above $455 million would be divided on a 50/50 basis between the historic rail systems and those "new" fixed guideway systems experiencing substantial modernization needs—those systems in revenue service for at least ten years. These excess funds would be distributed by the factors contained under the Section 9 rail tier formula.

Tier Three—Distribution By Section 9 Formula.—All amounts appropriated in excess of $525 million would be distributed to all historic rail systems and eligible "new" fixed guideway systems by the factors contained under the Section 9 rail tier formula.

The Committee intends that the Secretary, in allocating funds under the revised rail modernization program, continue to take into account the special circumstances of the San Francisco area. The Committee intends that San Francisco's share under the Section 9 rail tier formula equal the cumulative formula share of the three rail systems currently operating within the area. In addition, the Committee intends that the designated recipient in the San Francisco region—the Metropolitan Transportation Commission—retain the discretion to allocate rail modernization funds among the area's three rail systems as it deems appropriate.

The Committee intends that the Secretary establish guidelines for the expenditure of rail modernization funds that are consistent with the traditional purposes and activities of the program. Such activities have included the replacement, renovation or refurbishing of existing facilities and equipment to achieve appropriate levels of service, safety, capacity or reliability.

OTHER AMENDMENTS TO SECTION 3 CAPITAL GRANTS

Title Change.—The Committee bill would rename section 3 of the Federal Transit Act to read "Capital Grant or Loan Program" rather than "Discretionary Grant or Loan Program" to reflect the fact that Section 3 Rail Modernization assistance will be allocated by formula.

Grandfathered Jurisdictions.—The Committee bill would clarify that all existing letters of intent, full funding grant agreements and letters of commitment that are in effect when this Act is enacted, will remain in effect notwithstanding other provisions of this Act.

The Committee intends that this "grandfather" clause will extend to the Westside Light Project in Portland, Oregon, as identified in section 328 of P.L. 101-516. The Committee directs that the extension of this project to the Transit Center in the City of Hillsboro, Oregon (subject to the regional decision documented in the regions preferred alternatives report) shall proceed under the existing terms and conditions. The Committee understands that progress on the Hillsboro extension will not preclude FTA from approving alternatives analysis for other projects in the region.

Innovative Techniques and Practices.—The Committee bill would expand eligible activities under the section 3 discretionary program to include projects that introduce innovative techniques and methods to public transportation. This change simply codifies existing practice by incorporating language from section 4(i) of the Act into section 3.

Capital Grants Eligible Activities.—The Committee bill would add to the list of eligible activities under section 6, the development of corridors to support fixed guideway systems. Grants could be used for bus service improvements, marketing of bus service, protection of rights-of-way through acquisition, transportation system management improvements (such as dedicated bus lanes, high occupancy vehicle lanes, construction of park and ride lots) and any other improvements that would result in increased transit usage in the corridor.

Overmatch and Fiscal Capacity.—The Committee bill would require the Secretary to take account of differences in state and local fiscal capacity if the Secretary gives special consideration in project approval for projects that "overmatch", or exceed the required state and local shares of project costs. The Committee intends to avoid placing distressed communities at an unfair disadvantage in the awarding of federal transit assistance. This change would maintain incentives for states and localities to contribute as much of the project costs from their own resources as is reasonable. The Committee bill also mitigates any inappropriate affects of "overmatch" by permitting highway funds to be used to reduce assistance requested under Section 3, as noted elsewhere in this report.

Capital Grants for Elderly Persons and Persons with Disabilities.—The Committee bill would allow public transit agencies to apply for funding under the Section 3 grant program for capital transportation projects that are specifically designed to meet the needs of the elderly and persons with disabilities.

The Federal Transit Act and the Rehabilitation Act have long guaranteed the rights of persons with disabilities and elderly persons to use mass transportation. The recently enacted Americans with Disabilities Act of 1990 imposes requirements on transit providers.

The Federal Transit Act and the Rehabilitation Act have long guaranteed the rights of persons with disabilities and elderly persons to use mass transportation. The recently enacted Americans with Disabilities Act of 1990 imposes requirements on transit providers that are more stringent than current law and, as a consequence, more costly. The Committee bill would provide public transit agencies with a mechanism to help address the major capital costs associated with ADA compliance.

Allocations.—The Committee bill would amend the statutory allocation of Section 3 funds that was established by the Surface Transportation and Uniform Relocation Act of 1987. The 1987 At mandated that Section 3 grant funds be allocated as follows: 40 percent for rail modernization; 40 percent for construction of new fixed guideway systems and extensions to fixed guideway systems; 10 percent for the replacement, rehabilitation and purchase of buses and related equipment and the construction of bus-related facilities; and 10 percent for a Secretary's discretionary pot to be allocated among the three major activities.

The Committee bill would establish a modified allocation of Section 3 funds: 40 percent for rail modernization; 40 percent for construction of new fixed guideway systems and extensions to fixed guideway systems; and 20 percent for the replacement, rehabilitation and purchase of buses and related equipment and the construction of bus-related facilities. The Committee has taken such action in recognition of the substantial bus needs anticipated over the coming five year period, particularly given the recent mandates of the Clean Air Act Amendments of 1990 and the Americans with Disabilities Act of 1990.

Local Share.—The Committee bill would clarify the existing statutory requirement that 25 percent of the cost of a project approved under section 3 be provided from non-federal sources. Under current practice, UMTA recognizes as non-federal match only those commitments that are made after a project is approved. The section would permit the costs of rolling stock purchased prior to the approval of a section 3 application to satisfy the non-federal share requirement if (1) the stock was purchased with no federal assistance, (2) the stock would not have been purchased except for its planned use on an extension eligible for Section 3 assistance, and (3) the stock is to be used on the extension for which the Section 3 application is being submitted.

The Committee is aware of one fact situation that would be covered by this amendment. In 1989, the Maryland Department of Transportation placed an order for 35 light rail cars for the new Baltimore Light Rail system. The order was intended to supply 27 cars for the operation of the light rail line now under construction (the "main line") and an additional 8 cars for future use on planned extensions to the system. The inclusion of the 8 cars represented commendable foresight on the part of the State: it ensured that the entire rolling stock inventory on the main line and the planned extensions would be compatible and enabled the State to save money by ordering a larger number of cars in advance. All costs for the construction of the main line and the 35 rail cars have been paid entirely with non-Federal funds.

The State expects to file a Section 3 application for the new extensions in late 1991 and recently began to discuss with UMTA the possibility of Federal support. UMTA informed the State that the costs of the 8 cars could not be counted towards the required non-federal share because the order was placed before approval of an application for section 3 funds. A different resoltuion would have occurred if the State had ordered the rail cars after approval. Then, the 8 cars would be part of the Full Funding Grant Agreement and any funds expended for such cars could count toward the non-federal share.

The Committee has concluded that the costs of purchasing the 8 rail cars should count towards Maryland's satisfaction of the non-federal share requirements under section 3. The expansion of the purchase order in 1989 was a prudent decision that enhanced long-term project management and reduced costs; Maryland should not be penalized for such action.

The Committee notes the narrow scope of this amendment; it would merely clarify, in a limited way, the non-federal matching requirement contained under Section 3. The amendment would not change any requirements governing the eligibility of the extensions for federal funding. Nor does it affect the Secretary's discretion to approve or disapprove a Section 3 application for the extensions. Nor does it change the level of either the federal or the non-federal matching requirement.

CRITERIA FOR NEW STARTS

Elimination of biases.—The Committee bill would eliminate biases in federal law that give state and local officials a disincentive against choosing the most effective solutions to local mobility and clean air problems, regardless of the transportation mode. Under current law, most jurisdictions have a strong incentive to choose highway construction rather than other transportation options because federal highway funds are so much easier to receive. Highway projects qualify for a higher federal match, local matching funds may be available only for highway projects, and transit projects have a more burdensome and time consuming approval process. As transit becomes more urgently needed in areas with severe air pollution and congestion, these biases in federal law become even more troublesome.

The Committee bill provides a more "level playing field" by relieving transit application review requirements under certain circumstances. FTA's consideration of local overmatch would be refined and linkage between transportation and air quality would be recognized. Equitable evaluation of each transportation alternative is necessary for flexible use of transportation funding, as provided in the Committee bill and the highway bill reported from the Senate Environment and Public Works Committee.

FTA Review Process.—A key barrier to the choice of transit is the current approval process for major transit new start and extensions projects. This process was originally intended to provide information for allocation of scarce federal discretionary grants for transit. Over time, this has evolved into a process that itself serves as a grant rationing device designed to slow down all projects and keep applicants away from the window as long as possible. Under the previous Administration, federal cost-effectiveness thresholds were used to aggressively block construction of fixed guideway projects that the administration philosophically opposed.

Many transit experts have found the transit approval process narrow in scope, overly complex and excessively time-consuming. Federal procedures do not adequately recognize potential benefits of a transit project as reflected in reduced air pollution and energy consumption, increased economic development, improved mobility for transit dependent people, and relief of roadway congestion.

The Committee believes the transit grant approval process should weed out unsound projects without needlessly escalating costs on meritorious projects. Excessive approval procedures erode the buying power of federal assistance, make it difficult to maintain a local consensus for transit, and discourage localities from carrying out the most effective transportation strategy. The Committee intends that FTA will assess current procedures and reduce unnecessary or excessive reports and requirements in the project development process.

The Committee bill would broaden the criteria used in evaluation of new starts projects to include consideration of a project's social, environmental and economic impacts. Administrative cost-effectiveness analysis has used changes in ridership as a proxy for other benefits derived from transit. The Committee bill would revise federal cost-effectiveness analyses to take explicit account of direct and indirect costs associated with each transportation alternative, including the costs of resulting air pollution, delay caused by congestion, and increased importation of foreign fuel. FTA would also have given appropriate recognition to other benefits of transit—such as realistic expectations for economic development, increased mobility for transit dependent persons, and local efforts to support transit through land use and other policies. FTA would be expected to consider a community's efforts to facilitate the development, improvement and use of efficient transportation systems through existing land use policies and projected future patterns of development.

The Committee intends that these added criteria will receive equal consideration as existing indices in determining project worthiness. That is, a project would not have to meet existing criteria before these additional factors would be considered. The Committee further intends that the FTA consider the costs and benefits of transit and other alternatives on a long-range basis.

The Committee bill would adjust the numerical cost-effectiveness threshold used to rate projects so that it reflects inflation and regional differences in land, construction and operating costs. The Committee expects that, until updated indices are available, FTA would reflect inflation adjustments in current indices.

The Committee bill would clarify the meaning of "local financial commitment" and "stable funding sources" to ensure that transit providers can carry through on their commitment to develop and operate a new or expanded fixed guideway system without reducing existing levels of service. To meet the criteria for local financial capacity, a recipient would be required to have reasonable contingency funds available to cover unanticipated project cost overruns; have stable, reliable and available funding sources for the duration of the project timetable; and maintain transit service at existing levels. Determinations of the stability, reliability and availability of local funding sources would be based on existing grant commitments; the degree to which funding sources are dedicated to the project; and any debt obligations which exist or are proposed to fund the project or other transit activities.

The Committee did not include provisions recommended by the Administration to require the assessment of innovative project financing as part of the section 3 project development process. The Committee believes that consideration of alternative financing options is important, but should apply equally to all federal transportation investments. The Committee has, therefore, included these provisions in the transportation planning process described in this bill.

Overmatch policy.—Under current practice, UMTA gives preference to applications that have state or local funding substantially above the required non-federal match. That policy is intended to ration scarce Section 3 resources and give preference to projects that are of very high priority at the local level. In practice, however, the policy places relatively poor areas at a disadvantage. The policy also greately exacerbates the bias against transit projects by driving the required state/local share for transit projects well above comparable shares for highway projects. For highway construction projects the required match is the match, but for transit construction projects the required match is the *minimum* match. A community must often provide a local matching share at least the 25 percent match required in law if its project is to have a chance at approval.

The Committee bill would prohibit FTA from discriminating in the allocation of discretionary funds against communities that can't provide overmatch due to fiscal incapability.

The Committee bill would, however, provide incentives for communities with more available resources to contribute the greatest amount of local share reasonably possible. Project review processes would be expedited for applications that request Section 3 assistance of less than $25 million or less than one-third of the total costs of a project of program of related projects. Thse limits could be achieved by using higher levels of non-federal funding and allocating other federal transportation assistance to the project, such as federal highway assistance. Federal highway assistance could not be used for the required local match, but it could be used to reduce the need for Section 3 assistance to qualify for expedited project review and approval.

The Committee recommends that FTA, if giving preference to communities that overmatch federal requirements, identify and consider per capita indices of state and local project contributions, in addition to aggregate measures of contributions. This would provide a fairer assessment of the relative level of financial commitment from smaller urban areas.

Linkage with the Clean Air Act.—The Committee bill would reinforce the important link between air quality and transportation that is recognized in the Clean Air Act, as amended. The new starts criteria and the limitation of development to one corridor at a time would be waived for transportation control measures required to carry out an approved State Implementation Plan (SIP) in extreme or severe non-attainment areas. In other non-attainment areas, review requirements would be expedited for such transportation control measures required in an approved SIP.

The Committee expects that this section would be implemented through formal public notice and comment procedures. The Committee further expects that this Committee and the House Public Works and Transportation Committee received advance opportunity to comment on FTA's capital investment policy.

FEDERAL SHARE FOR ADA AND CLEAN AIR ACT COMPLIANCE

The Committee bill would establish a higher federal match for those projects that involve the acquisition of bus-related equipment (e.g. lift equipment, particulate traps) or the construction of facilities (e.g. alternative fuels facilities) required by the Clean Air Act Amendments of 1990 or the Americans with Disabilities Act. The federal match would be set at 90 percent of the cost of such equipment or facilities. The changes apply to projects funded under sections 3, 9, 16(b), and 18. The Secretary would determine the portion or portions of a project eligible for the higher federal match. The current federal match for capital projects is 80 percent under sections 9, 16(b) and 18 and 75 percent under section 3.

Projects eligible for the higher match would include, for example, the procurement of lift-equipped buses and vans; the acquisition of particulate traps; the construction or renovation of bus stops, terminals and transfer stations; or the construction of alternative fuels facilities.

The Americans with Disabilities Act requires the provision of special services and improved access to regular services for persons with disabilities. Under ADA, every transit vehicle, bus and rail car purchased or leased by a transit system must be accessible to persons with disabilities, including people using wheelchairs. Light, rapid and commuter rail systems must carry at least one assessible car on each train within five years. New "key" rail stations must be accessible within three years unless an exception based on high cost is met. Special on call services (complementary paratransit) must be available for those disabled riders who, due to the severity of their impairment, are unable to use a regular fixed-route system, even if it is accessible.

The Department of Transportation estimates the cost for all ADA transportation requirements to be between $850 million and $1.3 billion per year.

The Clean Air Act Amendments of 1990 will also have a major impact on costs of providing transit. The most direct effect will be on urban bus systems (those bus systems which operate intracity in urbanized areas) which will have to lower their particulate matter emissions and bear the costs of bringing their fleets into compliance with the Act through the use of newer, cleaner technologies.

Estimates of the cost of compliance with the Clean Air Act Amendments vary, depending on the system or technology used. The costs associated with replacing buses upgraded to use clean alternative fuels range from $48,000 per bus for methanol fuel to $64,000 per bus for compressed natural gas. The estimated cost of replacing a bus equipped with particulate traps is $14,000. In addition, the estimated cost for replacing or modifying existing fuel storage systems to meet new federal guidelines runs as high as $1 million per system.

The combined costs to transit systems associated with compliance with the Clean Air Act Amendments of 1990 and the Americans with Disabilities Act will be significant. The Committee notes that the proposal submitted by the Administration contained only $50 million to assist transit providers with compliance with the Clean Air Act Amendments of 1990 and the Americans with Disabilities Act, and proposed reducing the federal share for these projects to 60 percent.

The Committee is aware that many transit systems may have difficulty meeting the costs associated with compliance. The Committee is also aware that the current state of the national economy and the fiscal distress faced by many states and localities may pose added burdens for transit systems already struggling with rising fuel costs and in some cases, reduced services.

The higher federal match included in the Committee bill recognizes the significant fiscal impact that compliance with the new federal laws will entail and attempts to provide transit systems with some assistance in meeting the goals of these faderal mandates. The bill also recognizes the importance of transportation demand strategies as noted from section 108 of the Clean Air Act Amendments 1990 and encourages research and technical assistance for these purposes.

COMPREHENSIVE TRANSPORTATION STRATEGIES

The Committee bill would reform the current transportation planning process to give more attention to intermodal solutions and to give metropolitan planning organizations (MPOs) in certain areas clearer responsibilities for approving projects. The Committee bill requires the development of comprehensive metropolitan transportation strategies by metropolitan planning organizations. The Committee bill is designed to make few significant changes in current practice for areas that are less densely populated and that do not have problems with air pollution.

The existing urban transportation program and planning process largely has been positive. However, the current environment, the nature of growth patterns, and transportation needs in metropolitan areas requires a new surface transportation program architecture coupled with an enhanced transportation planning and investment decisionmaking process to address state, regional and local needs within the context of national policy objectives and strategies. The new process should provide for a new, more collaborative decisionmaking arrangement that actively engages the state, public transit operators, and local government officials.

The current Section 8 program follows the practice in the Section 134 metropolitan highway planning requirements for defining the planning area boundary, which is essentially the urbanized area within each metropolitan region. This practice makes sense when the original metropolitan planning requirements were crafted in 1962, but is inadequate today. Since that time, suburbanization and its attendant problems including degradation of air quality requires an expansion of the metropolitan boundary to enable growth areas in the outer reaches of the metropolitan area to be assessed within an overall transportation and program. The need to include these growth areas was recognized in the recently enacted Clean Air Act Amendments which expanded the non-attainment boundary to include the entire Metropolitan Statistical Area.

The Committee believes that there should be an orderly evolution of a strengthened collaborative metropolitan planning and programming process. Effective collaboration requires full representation and participation of the state, local public officials, and the public transit operator(s) in the process. Because the Committee recognizes that within metropolitan area boundaries, growing suburbanization can lead to imbalances between addressing central city and suburban needs, the Committee has provided for assured representation of central cities on metropolitan planning agency. This special consideration for the needs of central cities should be reflected in the expenditure of funds as well.

In amending Section 8, the intent of the Committee is to provide for an orderly reassessment and redesignation of the planning agency and area by local public officials and the Governors over a reasonable period of time. The Committee recognizes the need for a phase-in process for redesignating Transportation Management Areas which are the larger metropolitan areas and areas which are not meeting ozone air quality standards. However, the Committee intends that the highest priority for redesignation of institutions and area boundaries should be given to the 96 non-attainment areas. In non-attainment areas classified as serious, severe or extreme, redesignation of Transportation Management Areas and their boundaries should occur within two years, with the balance of TMAs designated as soon as practicable but not later than four years after enactment.

Statement of national interest.—The Committee bill declares Congressional intent that it is in the national interest to encourage and promote the development of transportation systems that integrate various modes of transportation and efficiently maximize mobility of people and goods within and through metropolitan areas and minimize transportation-related fuel consumption and air pollution. The Secretary would be required to cooperate with state and local elected officials in metropolitan areas in the development of comprehensive transportation stategies for achieving this objective.

Metropolitan Planning Organizations.—The Committee bill would require that an MPO be designated for each urbanized area of more than 50,000 in population, as under existing law. The MPO structure would be determined by agreement among the Governor and units of general purpose local government representing at least 75 percent of the affected population, including the central city or cities, as defined by the Bureau of the Census. If an MPO is in a metropolitan area that (1) has population over 250,000, (2) is in non-compliance under the Clean Air Act, or (3) is otherwise eligible for designation as a "transportation management area" as noted below, the MPO will have to include local elected officials, officials of agencies that administer or operate major modes of transportation in the metropolitan area (including, at a minimum, all transportation agencies that were included as of June 1, 1991), and appropriate state officials. For purposes of this section, the term "metropolitan area" means an area for which one metropolitan planning organization is responsible.

Once an MPO is designated, whether under this or earlier provisions of law, the designation would remain in effect until revoked either by agreement among the Governor and the local governments or by other state or local procedures. To accommodate the new responsibilities conferred under the bill, this subsection would permit MPO's to be reorganized and redesignated at any time by agreement among the Governor and local governments representing at least 75 percent of the metropolitan area's population, including the central city or cities, as defined by the Bureau of the Census. The bill requires that an MPO be redesignated within a period of 12 months if the Secretary designates the metropolitan area to be a transportation management area. The Secretary is required to establish appropriate procedures and timetables for MPOs to comply with membership requirements and other provisions in law.

The Committee bill would require each governor, when an MPO is designated or reorganized, to ensure that the MPO is structured to (1) give balanced assessment to all modes of transportation, including roadway and public transit facilities, (2) give full consideration to the need for mobility of people and goods into and through central cities within the metropolitan area, and (3) otherwise carry out the MPO's responsibilities under federal law. The Governor would have to certify to the Secretary that the requirements of the previous sentence have been met.

Transportation Management Areas.—The Committee bill would require the Secretary to designate certain metropolitan areas to be "transportation management areas", within which the MPO will have expanded responsibilities for planning and projects selection. Transportation management areas would include all metropolitan areas that have greater than 250,000 population, or are nonattainment areas under the Clean Air Act, as amended. The Secretary would be required to publish and annually update a list of metropolitan areas that meet those criteria.

The Secretary could also designate additional transportation management areas at the request of the Governor and MPO. Such additional metropolitan areas may include ecologically fragile areas of national significance that are expected to be significantly affected by transportation decisions. This would permit local officials in ecologically important areas with smaller populations, such as the Lake Tahoe area in California and Nevada, to have the direct authority they need to carry out a comprehensive, long-range transportation strategy that integrates all modes.

The designation of a transportation management area would remain in effect until revoked by the Secretary. The MPO in a transportation management area is required to carry out a continuing, cooperative and comprehensive transportation planning and programming process in cooperation with the state and transit operators. The bill gives such MPOs additional authority and responsibility.

To provide for an orderly implementation of intermodal planning and programming in transportation management areas, the Committee bill provides a transition period. The Secretary would be required to achieve the designation of not less than a minimum number of transportation management areas in each of the next 5 years: by the end of the first year after enactment, 20 percent of the eligible metropolitan areas would have to be designated; by the end of the second year, 40 percent; by the end of the third year, 60 percent; by the end of the fourth year, 80 percent; and all such areas would have to be designated in the fifth year. The bill makes it clear that the Secretary is responsible for exceeding the minimum percentages required for designation. Although the Secretary can make adjustments for compelling local circumstances, the Secretary is expected to begin with designation of metropolitan areas that have the most severe problems of air quality and traffic congestion. The Committee expects that priority would also be given to metropolitan areas where the MPO is well organized to comply with the requirements of this section and requests such designation. The Secretary would be required to designate all nonattainment areas that are classified under the Clean Air Act, as amended, to be "moderate", "serious", "severe" or "extreme" nonattainment areas for ozone or "serious" nonattainment areas for carbon monoxide within 2 years after the date of enactment of this section.

Metropolitan Area Boundaries.—The Committee bill provides that the boundaries of a metropolitan area would be determined by agreement between the MPO and the Governor. To provide for comprehensive, long-range transportation planning, each metropolitan area would have to include at least the existing urbanized area and the contiguous area that can reasonably be expected to be urbanized within the subsequent twenty year period.

The bill makes provision for metropolitan statistical areas that are so large or complex that one MPO would be too unwieldy. The bill, however, would discourage the break up of MPOs that have already been formed. This subsection permits more than one MPO to be designated within a metropolitan statistical area, as defined by the Bureau of the Census, only if the area had more than one designated MPO on January 1, 1991 and the Secretary determines that more than one MPO is needed because of the size and complexity of the area. The bill authorizes the Secretary to require consolidation of MPOs in a metropolitan statistical area if the Secretary does not find that more than one MPO is needed for coherent regional transportation decision making. If more than one MPO is needed, the bill requires that appropriate provision be made to coordinate the metropolitan transportation strategies of all MPOs within the metropolitan statistical area.

The bill requires all areas that are in non-compliance under the Clean Air Act, as amended, to be included within the boundaries of the appropriate MPO's metropolitan area. An appropriate metropolitan area would also have to include any area that the Governor and MPO detemrine are likely to be significantly affected by air pollution within the foreseeable future, as determined by the Secretary. If more than one MPO has authority within a non-attainment area, appropriate provision would have to be made to coordinate the metropolitan transportation strategies within the whole non-attainment area.

The bill would foster coordination of transportation strategies across multi-state areas. The Secretary would have to establish requirements to encourage Governors and MPOs with responsibility for a portion of a multi-state Metropolitan Statistical Area (MSA) or Consolidated Metropolitan Statistical Area (CMSA) to provide coordinated transportation planning for the entire MSA or CMSA.

The bill would give States consent to enter into interstate agreements or compacts that are not in conflict with any law of the United States, for cooperative efforts and mutual assistance in support of activities authorized under this section.

Development of Transportation Strategy.—The Committee bill would require each MPO to prepare and update periodically a metropolitan transportation strategy for its metropolitan area. The Secretary would establish procedures according to which the strategy would be prepared. In developing the strategy, the MPO would be required to consider the environmental, energy, land use, and other regional effects of all transportation projects to be undertaken within the metropolitan area, without regard to funding source.

The Committee bill would specify major elements to be included in a published strategy in contrast to existing statute, which specifies elements of a local planning process. The Committee believes the federal government should direct its attention to the *product* of a local planning process, leaving more discretion to states and localities to define the most appropriate process for arriving at that product.

Each MPO would have to publish the strategy or otherwise make it readily available for public review. The MPO would also have to submit the strategy to the Governor for information purposes. The Secretary would have to establish dates and procedures for the publication and submission of strategies.

In Clean Air Act non-attainment areas for transportation-related pollutants, an MPO would be required to coordinate the development of a metropolitan transportation strategy with the development of transportation measures of the State Implementation Plan required by the Clean Air Act.

Each MPO would be required to provide citizens, affected public agencies, representatives of transportation agency employees, private providers of tranportation and other interested parties with a reasonable opportunity to participate in the development of the strategy.

The Secretary would have to assure that each MPO is carrying out its responsibilities under applicable provisions of federal law. At least every three years, the Secretary would be required to provide certification to those MPOs that are complying with requirements of federal law. If the Secretary finds, after resonable notice and opportunity for hearing, that an MPO is not carrying out its responsibilities under applicable provisions of federal law, the Secretary would have to deny certification. In that case, and until satisfactory corrective action is taken, the Secretary may suspend or disapprove in whole or in part the expenditure within the metropolitan area of funds made available under the Federal-Aid Highway Act of 1991 or the Federal Transit Act. The Secretary would be specifically prohibited from (1) withholding certification of an MPO on the basis of the MPO's policies and criteria for determining the feasibility of private sector participation in accordance with section 8(e) or (2) otherwise impeding an MPO's implementation of such policies and criteria.

Contents of Strategy.—The Committee bill requires metropolitan tranportation strategies to be in a form that the Secretary deems appropriate. At a minimum, a strategy would:

(A) Identify transportation facilities (including major roadways, mass transit, and multimodal and intermodal facilities) that should function as an integrated metropolitan transportation system, giving emphasis to those facilities that serve important national and regional transportation functions, such as (i) moving goods within the metropolitan area and among distant markets, (ii) enabling people to move quickly to and from home, jobs and other destinations, and (iii) connecting complementary modes of transportation (such as highways, transit systems, ports, railroads and airlines);

(B) Assess major demands on the metropolitan transportation system, projected over the subsequent 20 year period;

(C) Set forth a long-range strategy for meeting metropolitan area personal mobility goods transportation needs, including state and local actions to manage travel demand, improve transportation operations and management, increase the efficiency and effectiveness of existing facilities, or provide new transportation capacity;

(D) Explain how proposed transportation decisions will (i) achieve compliance with applicable requirements of the Clean Air Act, as amended, the Clean Water Act and other environmental and resource conservation laws, (ii) further applicable federal, state and local energy conservation programs, goals and objectives and (iii) affect other important social, economic and environmental objectives of the metropolitan area as reflected in publicly adopted plans, such as those concerning housing, community development, and historic preservation;

(E) Explain (i) the extent to which state and local policies regarding land use and transportation will affect metropolitan-wide mobility, and (ii) how proposed transportation decisions will affect future travel demand, growth in vehicle use, mobile source emissions, and land use and development, taking into consideration the provisions of all applicable short-term and long-term land use and development plans;

(F) Include a financial plan showing how the metropolitan transportation strategy can be implemented, which plan shall indicate resources from all sources that are reasonably expected to be made available to carry out the strategy, and recommend any innovative financing techniques to finance needed projects and programs, including such techniques as value capture, tolls, and congestion pricing;

(G) Project capital investment and other measures necessary to (i) ensure the preservation of the existing metropolitan transportation system, including requirements for operations, resurfacing, restoration and rehabilitation of existing and future major roadways, as well as operations, maintenance, modernization and rehabilitation of existing and future public transit facilities and (ii) make the most efficient use of existing transportation facilities to relieve vehicular congestion and maximize the mobility of people and goods; and

(H) Indicate any proposed tranportation enhancement activities, as defined in the Clean Air Act.

For metropolitan areas that are not transportation management areas, the bill would permit the Secretary to provide for abbreviated strategies appropriate to achieve the purposes of this section, taking into account the complexity of transportation problems, including transportation related air quality problems, in such areas. The state would be required to develop a state-wide transportation strategy that takes into account the transportation needs of areas for which no MPO has been designated.

Development of transportation improvement programs (TIP).—The Committee has provided that a Transportation Improvement Program is required to be developed by every Metropolitan Planning Organization. The TIP will include all federally-assisted projects and activities to be carried out within the metropolitan area. Section 8(c) further provides that in transportation management areas—those over 250,000 population and non-attainment areas—projects and activities funded under Section 106 of the Federal-Aid Highway Act of 1991 and sections 3 and 9 of this Act will be selected and approved by parties acting collaboratively through the metropolitan planning process. The projects that are selected through this collaborative process in Transportation Management Areas should reflect the highest priority needs and interests that would be served by using these funds in carrying out comprehensive transportation strategies and meeting national objectives. However, it should be noted that some projects are designated solely to preserve and maintain existing highway and transit facilities and activities, and are largely the programming responsibility of the state or public transit operator. The Committee does not intend for these projects to be subject to the metropolitan selection and approval process.

These projects are required, however, to be contained in the Transportation Improvement Program for the metropolitan area.

The Committee intends that projects exempted from the selection and approval process be strictly limited to operations management, maintenance and preservation projects that do not add to the physical design capacity of facilities. Excepted projects would not include, for example, highway projects that provide for additional lanes, auxiliary lanes, or interchanges, rail extensions, new bus facilities, or new or extended bus routes.

The Committee bill would require an MPO, in cooperation with the state and relevant transit operators, to develop and submit to the Secretary for review a transportation improvement program for the ensuing period of not less than 3 years and, to the extent practicable, for subsequent periods of not less than 3 years. The program would have to include all projects within the metropolitan area that are proposed for funding pursuant to the Federal-Aid Highway Act of 1991 and the Federal Transit Act. The program would have to conform with the approved metropolitan transportation strategy and the State Implementation Plan required under the Clean Air Act, as amended. The program would have to include a project, or an identified phase of a project, only if full funding for such project or project phase can reasonably be anticiapted to be available within the period of time contemplated for completion of the project. In the case of a major project to expand the transportation capacity, an appropriate range of alternatives would have to have been analyzed in accordance with the National Environmental Policy Act.

The Committee bill would require the MPO to update or reapprove the program annually, although the Secretary could permit less frequent updating for areas that are not designated to be transportation management areas. An MPO would be able to amend the program at any time, provided that the amendment is consistent with the metropolitan transportation strategy.

The Committee bill would require an MPO, prior to approving a transportation improvement program to provide citizens, affected public agencies, representatives of transportation agency employees, private providers of transportation and other interested parties with reasonable notice of, and opportunity to comment on, the proposed program.

A TIP would have to identify priority projects reflecting projected funding and the objectives of the metropolitan transportation strategy that shall be carried out for each relevant programming period.

The Committee bill would require each governor to develop and submit to the Secretary a TIP for areas for which no MPO has been designated. The state TIP would have to cover a period of not less than 3 years and include projects proposed for funding in both metropolitan and non-metropolitan areas under the bridge and interstate assistance programs of the Federal-Aid Highway Act of 1991.

Approval of projects.—The Committee bill would give the MPO in a transportation management area authority to approve all projects in the metropolitan area that would expand the capacity of the existing transportation system. The MPO would have to submit to the Governor and the Secretary a list of highway and transit projects and activities that the MPO has approved for funding in the ensuing period, which could not exceed two years. Federal assistance required for the approved projects and activities could not exceed the amount of federal assistance that is made available for capacity expansion within the metropolitan area for the period—either under section 106 of the Federal-Aid Highway Act of 1991 of sections 3 and 9 of the Federal Transit Act.

When submitting a list of approved projects and activities, the MPO would have to certify to the Secretary that the list (A) was developed in accordance with a continuing, cooperative and comprehensive planning process that the Secretary has found satisfactory under subsection (a)(4) (E) and (B) is consistent with a transportation improvement program that is submitted to the satisfaction of the secretary under subsection (b)(2).

The Committee bill would prohibit funds under the Federal-Aid Highway Act of 1991 or the Federal Transit Act from being used for any project or activity within a transportation management area unless it is included in the list of projects approved by the MPO. That prohibition would not apply to projects or activities that (A) are necessary to manage, maintain and preserve existing transportation facilities or operations without adding to the design capacity of such facilities, or (B) are part of a program of investments required to comply with the Americans with Disabilities Act or the Clean Air Act, as amended. Planned projects or activities exempted from MPO approval under this section would still have to be included within a TIP.

Recapture.—The Committee bill provides that federal highway and transit funds made available in a transportation management area for project selection by an MPO would remain available for a period of 3 years. If the funds are not obligated within that period, the Secretary would be required to recapture the funds and promptly reallocate them among other states according to the formula for the program under which the funds were made available. Funds would be considered to be obligated if they are reserved to help finance a project for which an application is pending under Section 3 of the Federal Transit Act.

Transfer of funds.—Funds made available under the Federal Transit Act that are approved by an MPO for a highway project would have to be transferred promptly to and administered by the Federal Highway Administration, in accordance with the requirements of the Federal-Aid Highway Act of 1991. Funds made available under the Federal-Aid Highway Act that are approved by an MPO for a transit project would have to be transferred promptly to and administered by the Federal Transit Administration in accordance with the requirements of the Federal Transit Act.

Intergovernmental cooperation in planning.—The Committee bill includes a provision in existing law that authorizes the Secretary to contract for and make grants to states and local public bodies and their agenices for planning, engineering, designing, and evalaution of public transportation projects, and for other technical studies. Activities assisted under this section could include (1) studies relating to management, operations, capital requirements, and economic feasibility; (2) preparation of engineering and architectural surveys, plans, and specifications; (3) evaluation of previously funded projects; and (4) other similar or related activities preliminary to and in preparation for the construction, acquisition, or improved operation of mass transportation systems, facilities and equipment. A grant of contract under this section would have to be made in accordance with criteria established by the Secretary.

The Committee bill includes another provision in existing law that requires plans and programs under this section to encourage the participation of the private sector to the maximum extent feasible. A metropolitan planning organization would have exclusive responsibility for determining the policies and procedures necessary to carry out this subsection. If a program involves the acquisition of facilities and equipment that are already being used for mass transportation in urban areas, the program would have to provide that the facilities and equipment be so improved (such as through modernization, extension, or addition) that they will better serve the transportation needs of the area.

Funding for planning and project approval.—The Committee bill would allocation of planning funds to MPOs by formula with adjustments to take account of past levels of federal assistance and differences in responsibilities for planning. State planning funds would be provided as part of a new Section 26 State Program.

Under a basic formula, 80 percent of the funds available to MPOs would be allocated to states in the ratio that the population in urbanized areas, in each state, bears to the total population in urbanized areas, in all the states as shown by the latest available decennial census. No state would receive less than ½ of 1 percent of the total apportioned under this formula. Funds would be allocated to MPOs within the state, by a formula—developed by the State in cooperation with metropolitan planning organizations and approved by the Secretary—that considers population in urbanized areas and provides an appropriate distribution for urbanized areas to carry out the cooperative processes described in section 8 of this Act.

The remaining 20 percent of the funds made available to MPOs would be allocated under a supplemental formula for Transportation Management Areas. These amounts would supplement funding for metropolitan planning organizations in transportation management areas. Such funds would be allocated according to a formula that reflects the additional costs of carrying out planning, programming and project selection responsibilities under this section in such areas.

The Committee bill would ensure that each MPO receives no less under the formula than the amount it received by administrative formula under section 8 of this Act in fiscal year 1991, the Secretary could make a pro rata reduction in other amounts made available to carry out the state and national planning and research program.

The federal share for section 8 activities would be 75 percent except where the Secretary determines that it is in the federal interest not to require a state or local match.

AMENDMENTS TO SECTION 9 OF THE ACT

Federal Operating Assistance.—The Committee bill does not include the Administration's proposal to eliminate federal operating assistance for urbanized areas over 1 million in population.

The Committee heard compelling testimony that this is perhaps the worst time to eliminate federal operating assistance for the nation's large mass transit systems. Economic recession and rising fuel costs have already forced large systems to raise fares and reduce services. Eliminating federal aid would leave transit systems with the same dismal options since states and localities—caught in a fiscal crisis—could compensate for any loss.

Available evidence indicates that raising fares and/or reducing services would force many transit riders to shift to automobile use and thereby increase traffic congestion, energy consumption, and air pollution—in direct contravention of national objectives. Raising fares and/or reducing services would also place the greatest strain on the limited budgets of those populations (elderly, persons with disabilities, inner city poor) who are transit dependent.

The loss of federal aid would have a devastating effect on individual transit properties.

> CTA (Chicago) would lose $40 million in federal operating aid. Fare increases of 15 percent would be needed to compensate for the loss.
>
> SEPTA (Philadelphia) would lose $27 million in federal operating aid. SEPTA estimates that fares would need to rise 15% to offset the loss—causing ridership to fall 3% to 4%.
>
> WMATA (Washington) would lose $16 million in federal operating assistance. WMATA has already announced fare increases of 18% over the next two years and anticipates that ridership on existing lines will fall 5%.
>
> MTA (Baltimore) would lose $10 million in federal operating aid. MTA believes that state funds would need to be diverted from system preservation activities to compensate for the loss.
>
> MARTA (Atlanta) would lose $5.4 million in federal operating aid. MARTA estimates that increasing the fare by 10 cents—the value of the federal aid—would decrease annual ridership by 2.6 million passenger trips. A fare increase would also hinder marketing efforts to encourage auto riders to switch to transit.

The loss of federal aid would also impede compliance with the recently-passed Americans with Disabilities Act. The largest portion of estimated costs under the ADA will be for providing complimentary paratransit service—the demand responsive service required for persons with disabilities whose impairment precludes them from using even accessible transit systems. Experts anticipate that operating costs will rise markedly as transit properties increase their provision of paratransit services.

By all accounts, the elimination of federal operating assistance would exacerbate the already weakened condition of large mass transit systems. It would also impede federal efforts to ensure and encourage compliance with a myriad of national objectives. The Committee has concluded that, in today's fiscal, economic, and regulatory climate, the elimination of federal operating assistance would be a hostile and irresponsible act. The Committee firmly rejects that course of action.

Federal Share.—The Committee bill would not include the Administration's proposal to reduce the federal contribution for transit projects: from 80% to 60% for rehabilitation projects and from 75% to 50% for new starts and extensions.

Hearings before this Committee and the Joint Economic Committee have outlined the dire fiscal condition of States and localities. It is highly unlikely that State and local jurisdictions can find the funds to replace any lost federal contribution.

The recession has reduced state and local tax revenue—e.g. real estate and sale taxes—that support mass transit operations. New York City taxes for mass transit alone have fallen by $350 million.

State fiscal conditions are the worst in nearly a decade. Falling revenues and spiraling health-care costs have led to severe budget deficits. States are being forced to take desperate action to balance their budgets—including cutting support for mass transit.

Cities are more troubles. Long term trends—cutbacks in federal aid, increased social problems, economic restructuring, demographic shifts—underlie the current crisis. Financial pressures are nationwide: affecting cities as diverse as New York, Bridgeport and Philadelphia in the Northeast, to New Orleans and Jacksonville in the South, to Detroit in the Midwest and Los Angeles in the West.

The Committee strongly believes that, at a time of fiscal crisis and economic recession, the federal government must continue to play a strong role in the expansion, preservation and operation of mass transit.

Allocations.—The Committee bill would make a technical correction to the percentage of funds set-aside for small urbanized areas and large urbanized areas. Under existing law, the section 18 and section 9 programs are funded as percentage set-asides from one account. The current set-asides are as follows: the section 9 program for large urbanized areas receives 88.43 percent of the total account; the section 9 program for small urbanized areas receives 8.64 percent; and the section 18 program receives 2.93 percent.

The bill would alter the current system by providing for a separate set-aside for rural transit programs. The section 9 set-asides for large uranized areas and small urbanized areas would, therefore, be proportionally adjusted to reflect this change. Henceforth, the section 9 program for large urbanized areas would receive 91.1 percent of the funds available for section 9; the section 9 program for small urbanized areas would receive 8.9 percent.

Discretionary Transfer of Apportionment.—The Committee bill would permit transit funds to be used for highway purposes under certain circumstances. Section 9 formula funds for capacity expansion could be transferred to highway projects only in transportation management areas—metropolitan areas over 250,000 in population or in non-attainment under the Clean Air Act. Rural transit (Section 18), Elderly and Handicapped transit (Section 16(b)(2)) and Discretionary (Section 3) funds would *not* be eligible for transfer to highway projects.

The transfer of section 9 funds would be subject to the approval of the metropolitan planning organization after appropriate notice and comment from affected transit providers. Basic transit activities—including the sound operation and maintenance of existing transit facilities, the management of ongoing transit and investments required to comply with the Americans with Disabilities Act or the Clean Air Act—would have to be provided for adequately before transfer of funds could occur.

Transit funds would be eligible for transfer to highway uses only where the source of State or local share funding is available equally for both highway and transit projects. The Secretary would be required to ensure that either sources of State and local matching funds are equally available for highways and transit, or dedicated sources of matching funds are available for highway and transit projects in a way that avoids any bias against local selection of transit projects. The Committee intends to ensure that decisions to transfer transit funds to highway projects are not made on the grounds that dedicated matching funds are available only for highway projects but not for transit projects.

Elimination of Incentive Tier.—The Committee bill would eliminate the "incentive tier" provisions of the section 9 bus and rail funding formulas. These provisions use the ratio of passenger miles to total operating expenses to allocate a small portion of formula funds. The incentive factors were introduced in the Surface Transportation Assistance Act of 1982 as a means of weighing and rewarding the operating efficiency of bus and rail systems.

The Administration recommended eliminating the incentive tier for three reasons.

First, the techniques used to collect the passenger mile data are difficult to verify and apply consistently among the nation's transit operators. Passenger mile data are not usually collected by transit systems as part of routine transportation operations, in contrast to other data (e.g. vehicle revenue miles) used in the Section 9 formula. In most instances, passenger mile data are obtained by sampling.

Second, the Administration can find no evidence that application of the incentive factors has induced any change in behavior among the transit operators.

Finally, the overall effect of eliminating the incentive tier would be insignificant. Slight percentage losses in some urbanized areas would, with a few exceptions, be more than offset by the increase in the authorized level for Section 9 funding.

Energy Efficiency.—The Committee bill would amend section 9 to prevent a transit recipient that undertakes certain energy efficiency initiatives from losing formula funds. Under existing law, 60% of the Section 9 rail tier pot is allocated on the basis of "fixed guideway revenue vehicle miles". Rail systems have found that this factor has the unanticipated effect of discouraging initiatives that lower energy consumption. A system, for example, that makes energy savings by running shorter trains in off-peak hours would experience a decrease in Section 9 funds due to a decrease in revenue vehicle miles. The decrease would take effect even if the system was still providing the same frequency of revenue service to the same number of riders. The Committee bill would hold harmless those rail systems that demonstrate to the satisfaction of the Secretary the combination of energy savings and continued service described above.

Applicability of Safety Program.—The Committee bill would apply Section 22 of the Federal Transit Act, which gives the Secretary investigatory powers to ensure safety in mass transit systems, to the section 9 program. The provision is necessary because of the requirement in section 9(e)(1) that only specified sections of the Federal Transit Act apply to section 9.

Certifications.—The Committee bill would make several amendments to simplify the section 9 grant application process—particularly the existing requirements that recipients self-certify their compliance with various statutory mandates. The bill would mandate that all certifications required by law be incorporated into a single document to be submitted annually as part of the Section 9 application. The bill would also require the Secretary to publish an annual list of all required certifications in conjunction with its annual publication—currenty required by Section 9(q)—of information outlining the apportionment of Section 9 funds.

Finally, the bill would require the Secretary to establish streamlined procedures to govern a recipient's "continuing control" certification with respect to track and signal equipment. Under existing law, a Section 9 recipient is required to certify that it has or will have "satisfactory continuing control" over the use of its facilities and equipment. Transit operators have found that the interpretation of this requirement with respect to track and signal equipment imposes unnecessary administrative burdens on transit recipients.

Program of Projects.—The Committee bill would require a recipient, in developing its program of projects, to assure that the program provides for the maximum feasible coordination of public transportation services assisted under the Section 9 program with transportation services assisted by other federal sources. A similar provision currently is in Section 18 of the Act.

Continued Assistance for Commuter Rail in Southern Florida.—The Committee bill would amend the Surface Transportation and Uniform Relocation Assistance Act of 1987 Act to permit a commuter rail line (Tri-County Rail Authority) in south-eastern Florida to continue to receive federal operating assistance under Section 9.

The TCRA commuter line was established as a temporary congestion relief measure during reconstruction of a major interstate in south-eastern Florida. To help meet the operating needs of this commuter line, Section 329 of the Surface Transportation and Uniform Relocation Assistance Act of 1987 permitted an increase in the Section 9 operating assistance cap for the urbanized areas of Fort Lauderdale and Miami, Florida. The increased operating assistance was specifically limited to commuter rail service "provided as a maintenance of traffic measure" during the reconstruction period.

The TCRA commuter line has proven to be successful and is expected to continue to operate beyond the completion of the interstate reconstruction. Recognizing the permanent status of the commuter line, this amendment would remove the limitations contained in Section 329 to enable TCRA to continue to receive federal operating assistance.

UNIVERSITY TRANSPORTATION CENTERS

In general.—In 1987 Congress authorized the University Transportation Centers Program to establish and operate transportation centers in each region of the country. The purpose of the centers is to conduct multi-modal research and training on the transportation of people and goods. A national competition established ten centers with the additional participation of 60 universities nationwide.

Over 313 research projects and 15 advanced institutes were established with the help of Federal funds and match funds. The Centers' unique structure fosters cross-university and inter-disciplinary collaboration. State and private sector participation ensures a focus on applied research and pathways for technology transfer.

The Committee bill would amend the responsibilities of university research to include safety issues. The bill would also establish three new lead university centers to accelerate the participation of minorities and women in transportation related professions. The Secretary would consider the commitment of the university to the enrollment of minorities and women when awarding grants.

Currently, one-tenth of our nation's workforce is employed in transportation. The Committee believes these new universities would help to ensure the diversity and technical skill of this large workforce as well as continue critical advances in transportation research.

RULEMAKING

Section 12(i) of the Urban Mass Transportation Act was added by the Surface Transportation and Uniform Relocation Assistance Act of 1987 (STURRAA) to ensure that major statements of transit policy would be subject to formal rule-making procedures. The Committee bill would prohibit FTA from issuing policy in Circular form that is not subject to formal review procedures. FTA policy statements would also be distributed more broadly and with more appropriate notice than the Circular process would otherwise provide. Since enactment of this provision, several instances of the Administration's non-compliance with congressional intent have arisen. For example, the Third Party Contracting requirements and Cross-Border Leasing guidelines were issued without Federal Register notice and comment. Additionally, the Administration continues to enforce several circulars governing major policy issued prior to passage of the 1987 Act which have never undergone public notice and comment. The Committee bill would clarify that all major statements of policy, except emergency rules, routine matters, or matters of insignificant impact, shall be subject to the process described in Section 12(i) of existing statute.

TRANSFER OF FACILITIES AND EQUIPMENT

The Committee bill would allow the Secretary to authorize the transfer of facilities and equipment acquired with funds under the Act to any public body for uses other than mass transportation. Under current law, the transfer of excess property for other public uses is difficult and cumbersome. This provision would simplify the process and allow, for example, the transfer of a surplus bus maintenance facility from a transit authority to a public school district.

The transferred facilities or remaining useful life of the equipment and equipment would have to remain in a public purpose use for a minimum of five years. In addition, prior to making any transfer, the Secretary would first have to make a written determination that there are no other mass transit purposes for which the asset should be used; that the benefit of allowing the transfer outweighs liquidation of the asset and return of the Federal financial interest in the asset; and that there is no Federal use for the asset.

The Committee bill would also allow States the flexibility to the transfer facilities and equipment between the Section 18 rural transit program and Section 16(b) program for the elderly and persons with disabilities. Current law does not allow equipment transfers from one program to the other. Since close to 60 percent of the recipients of Section 16(b) funds operate in rural areas, this provision is designed to maximize the use of equipment for both programs. Under this provision a State could, for example, transfer vans purchased with Section 18 funds to the Section 16(b) program and vice versa. The original program use requirements of Section 18 and Section 16(b) would continue to apply to any transferred equipment.

ELDERLY PERSONS AND PERSONS WITH DISABILITIES

The Committee bill would clarify existing statute by specifying that funds provided under the Section 16(b)(2) program will be allocated to the States, who in turn will distribute funds to eligible private non-profit organizations. States would submit a program of projects to the Secretary for approval as is current practice. The Committee bill would also require an assurance from the state that the state's program of projects provides for the coordination of Section 16(b)(2) transportation services assisted from other Federal sources. This provision is designed to encourage more effective coordination and to avoid duplication of service.

The Committee bill would authorize assistance under this program to public bodies that are approved by a State to coordinate transportation services for the elderly and persons with disabilities. This provision is designed to support the efforts of States attempting to coordinate transportation services. For example, Florida has passed a state law that mandates statewide coordination of all transportation services for the disadvantaged. Several of the entities designated by the state to coordinate these activities are public bodies such as county commissions. Although these designated entities must coordinate both funding sources and service provision, current law precludes them from receiving funds under 16(b)(2), thus hindering their ability to fully coordinate these transportation services. Public bodies eligible to receive funding under this section could include, for example, county governments or commissions, county offices on aging, regional planning councils, and metropolitan planning organizations.

The Committee is aware that even with the funding increase for the Section 16(b)(2) program provided by the Committee bill, the capital needs under this program will continue greatly to exceed the available resources. The Committee does not intend to open the Section 16(b)(2) program to public agencies that have access to other transit resources such as the Section 3 and Section 9 programs. The Committee intends that public bodies will use funding under this program in a very narrow circumstance, such as when the public body is approved by the State specifically to coordinate transportation services for the elderly and persons with disabilities. In carrying out this provision, the Committee intends that existing law governing labor protections will continue to apply as appropriate.

The Committee bill would allow the Governor of each state to use any funds that remain unobligated from the Section 16(b)(2) program during the final 90 day period prior to the expiration of the grant to supplement funds distributed under either the Section 18 program or the Section 19 program.

The Committee bill would also require the Secretary to issue regulations to allow recipients of 16(b)(2) funds to lease their equipment to public transit entities. The Committee bill specifies that the regulations shall be issued within 60 days of enactment of the bill.

HUMAN RESOURCES PROGRAM SUPPORT

The Committee bill would authorize the Secretary to retain any funds returned in connection with section 20 of the Act. Section 20 authorizes the Secretary to make grants or contracts for national or local programs that address human resource needs within public transportation activities. These retained funds would in turn be made available for any human resource activities eligible to be funded under section 20.

REPORT ON SAFETY CONDITIONS IN MASS TRANSIT

The Committee bill would require the Department of Transportation to submit a report to Congress on the safety record of mass transit. The report would include a summary of all passenger-related and employee-related deaths and injuries resulting from unsafe conditions in mass transit facilities. The report would also include a summary of the investigative and remedial actions taken by DOT in accordance with the authority provided by Section 22. Finally, the report would make recommendations concerning any legislative or administrative actions that are necessary to ensure that recipients of federal funds will institute the best means available to correct or eliminate safety hazards.

The Committee directs the Department of Transportation to work closely with the Congress in designing the parameters of this safety study. Some critical design elements of the study (e.g. the time frame to be covered by the study) have been left to future discussions between DOT and by the Committee staff.

The Committee notes that federal safety standards have not been issued for transit programs, leaving this area to state and local control. The Committee believes it is important to assess how effective state and local action has been in protecting transit riders as well as the substantial federal investment in transit facilities and equipment. The DOT study must, therefore, be designed to produce the type of data and information that will assist the Committee in evaluating the effectiveness of current safety measures and programs.

PROJECT MANAGEMENT OVERSIGHT

UMTA currently oversees over $33 billion in active grants nationwide. The agency is responsible for ensuring that grantees comply with the UMT Act and uniform grant regulations that apply across the government. These include federal purchasing and contracting standards for recipients of federal funds. In lieu of more direct oversight to ensure compliance, UMTA relies on grantee certification that they comply with all applicable federal requirements. To supplement self-certification and oversee grantees' compliance, UMTA regional offices have a number of monitoring tools including grantee financial and progress reports, site visits, annual audits, and triennial reviews. The 1987 reauthorization act required UMTA to implement the Project Management Oversight (PMO) program. This provision permits UMTA to use up to ½ percent of the funds made available each year to carry out sections 3, 9, 18, Interstate Transfer Projects and the National Capital Transportation Act (authorizing legislation for D.C. Metro) for project management oversight of major capital projects. UMTA currently relies heavily on the use of 12 independent contractors to perform project management oversight of 33 major capital projects. As a condition of receiving federal funding for major capital projects, grantees are required to submit project management plans (PMP) during the grant review process. In addition, each system is required to submit quarterly narrative progress and financial status reports about relevant grant activities once funding is provided.

The Government Accounting Office is currently reviewing UMTA's grants oversight practices. This investigation was prompted by procurement problems at one system studied by GAO and by reports that discretionary grants lacked little if any documentation. Preliminary GAO comments indicate a need for additional grants management oversight.

The Committee bill would increase the percentage of funds reserved for FTA's project management oversight program. The current ½ percent takedown of funds available under capital grants programs would be increased to ¾ percent. The Committee bill would remove a technical restriction currently limiting the use of "takedown" funds to projects funded under the particular section from which the funds were set aside. Instead, FTA could aggregate all of these funds for use on projects in any of the eligible programs.

The Committee intends that the additional resources provided for project management oversight, as well as the additional resources authorized for administrative expenses, will be used by FTA to improve its oversight activities.

PLANNING AND RESEARCH

In General.—Transit research has long been a key element of federal support for public transportation. Section 6—Research and Demonstration was one of the first programs established in the Urban Mass Transportation Act of 1964.

Over the past decade, however, federal support for research has been sharply reduced. According to the Transportation Research Board, in the 1970's, UMTA's annual research budget averaged $60 million, or nearly 1.5% of the industry's gross revenues per year. By fiscal year 1986, transit research obligations were approximately $22 million, barely more than one-fifth of 1 percent of estimated industry revenues of $10 billion. The private sector, by contrast, generally devotes 2.8 percent of its revenues to research.

While transit research spending has decreased, the Highway program has increased its research spending. The enactment of the Clean Air Act Amendments, the American with Disabilities Act and a reemphasis on safety issues, further increases the demand for mass transit research and planning.

The Committee has attempted to address this urgent need in several ways. The Committee bill would add a new planning and research program—section 26—to the Act. The Committee bill would provide sufficient funding and flexibility to ensure that research results are translated into practice when applicable. The bill folds funding for section 6—research and demonstration, section 8—planning (state planning funds only), section 10—training grants, section 11(a)—university research, and section 20—human resource programs into state and national planning and research programs. Combining program funding would facilitate the provision of training and technical assistance to ensure widespread implementation of workable products and services.

Funding.—The bill would set aside 3% of the total mass transit appropriations for research and planning. This action would ensure funding stability and predictability for long-term research and planning projects. Half of the 3% set aside of appropriated funds would be used to establish the state and national planning and research programs. This level of funding for the state and national programs would parallel the highway research program which is also 1.5% of that program's total appropriations. As described above, the other half of the 3% set aside would be used to fund local planning organizations and the Rural Transportation Assistance Program.

State Program.—The state program would consist of a new transit cooperative research program designed to address research priorities as determined by public transportation operators, suppliers and others involved in the mass transportation industry. The program is based upon the recommendations of the 1987 report by the Transportation Research Board entitled "Research for Public Transit—New Directions" and is similar to the successful Strategic Highway Research Program (SHRP) established under the Federal Aid Highway Act of 1987. The Transit Cooperative Research Program would focus on identifying and evaluating practical solutions to everyday problems experienced in the operating environment. A governing board would be established through the Transportation Development Corporation. A majority of the board would represent public operators of transportation service. Program management, project implementation and technical support to the board would be provided by the National Academy of Sciences under a cooperative agreement with the Secretary.

The remainder of the state program allocation would be made available to the States on the basis of population for research, training, planning, human resource support and demonstration projects. No state would receive less than one-half of one percent of these allocations. Although the local Metropolitan Planning Organizations would receive their funds as a separate percentage of the total set aside for research and planning, states could use state program funds to supplement the metropolitan planning organizations as well as the transit cooperative research program.

National Program.—The national planning and research program would authorize the Secretary to make grants and contracts in accordance with already established research, training and planning sections of the Act.

The Committee bill would require the Secretary to make available a minimum of $2,000,000 per year for the authorization period to provide transit-related technical assistance, demonstration programs, research development, public education and other activities to assist transit providers with the implementation of the Americans with Disabilities Act.

The Committee bill would also require the Secretary, to the extent practicable, to contract with a national non-profit organization with demonstrated capacity to carry out this activity.

The Committee is aware that a program similar in nature to the one contemplated by the Committee bill received funding in fiscal years 1988–1990. The program, Project ACTION (Accessible Community Transportation in Our Nation), was administered by the National Easter Seal Society through a cooperative agreement with UMTA. Project ACTION was designed to improve relations between the transit and the disability communities and to facilitate the development of cooperative tools and techniques for improved access to mass transportation for persons with disabilities.

The Committee believes that the experiences of Project ACTION over the last three years and its demonstrated capacity to develop tools and techniques which help to improve transportation services for persons with disabilities should serve as a model to the Secretary in establishing the program required by the Committee bill.

The National Program would allow the Secretary expedited processing of non-renewable grants less than $100,000 provided these grants are in compliance with labor provisions of the Act.

The Committee is aware of a recent General Accounting Office report (GAO, December, 1989) which noted the need for a more systematic and stable technical assistance program to encourage low-cost traffic management techniques. The Committee believes that the National Program should place a high priority on providing comprehensive research and technical assistance to encourage transportation demand management. To the extent practicable, these efforts should be coordinated with related efforts pursuant to section 108 of the Clean Air Act Amendments of 1990.

The Committee bill would also clarify the purposes of the national research and planning program by establishing a technology development program to focus on incremental improvements to existing technology as well as effective cost sharing programs.

TECHNICAL ACCOUNTING PROVISIONS

The Committee bill would make a technical amendment to correct certain administrative difficulties resulting from current accounting and Department of Treasury practices. Older, unobligated appropriations would be merged into the current appropriation for the particular activity. This provision would not affect in any way the availability of funds involved.

GAO REPORT ON CHARTER SERVICE REGULATIONS

The Committee bill would require the General Accounting Office to analyze the impact of the existing charter service regulations on the ability of communities to meet their local transportation needs.

The Committee has mandated this study in response to persistent criticisms of the existing regulations. Prior to 1987, public transit properties were permitted to operate limited charter bus services. These services had to be incidental to the provision of regular mass transit services and were only to be operated within the transit system's service area. As part of the Reagan Administration's "privatization" policies, UMTA issued regulations in 1987 and 1988 establishing a general prohibition on the use of UMTA funded equipment and facilities in charter service operations. Although the regulations establish a number of exceptions to the general prohibition (e.g. permitting incidental charter service where no private charter operator is determined to be "willing or able" to provide the service), transit operators claim that the regulations represent a marked departure from prior practice and significantly impede the ability of communities to meet local transportation needs.

Transit operators specifically contend that the regulations: (1) reduce the quality and quantity of transportation services available to the public; (2) prevent productive and efficient use of federally subsidized equipment and facilities; (3) make the cost of service prohibitively expensive in areas where private charters are located at a great distance from communities requiring service; (4) force community groups to pay noncompetitive rates for service; (5) diminish the ability of public operators to generate community support for transit; (6) impede the ability of local governments to carry out economic development activities; and (7) allow private operators to financially benefit from the use of federally-subsidized vehicles under agreements with public operators where the public operators provide service and the private carrier acts as a broker.

The Committee is concerned that the current regulations may prevent communities from meeting local transportation needs in the most cost efficient and effective manner possible. The Committee believes that a GAO study will provide Congress with objective information on the impact of the charter service regulations and help Congress determine whether the regulations are in need of modification. The GAO would be specifically instructed to examine the impact of the charter service regulations in at least three communities. The Committee recommends that the Comptroller General include a community in the state of Michigan as one of the communities to be analyzed.

GAO STUDY ON PUBLIC TRANSIT NEEDS

The Committee bill would require the General Accounting Office, on a biennial basis, to submit a report to Congress that evaluates the extent to which the nation's transit are being adequately addressed. The report would include (1) an analysis of the unmet needs for transit; (2) a projection of the maintenance and modernization needs that will accrue over the coming five years as existing transit equipment and facilities deteriorate; and (3) a projection of the need to invest in additional transit facilities over the coming five years to meet changing economic, commuter and residential patterns. The report would also estimate (1) the cost of meeting the needs identified above; (2) the public and private resources that will be available to support public transit; and (3) the gap between transit needs and resources.

The Committee strongly believes that the existing sources of information on transit need are inadequate. It is difficult to determine the level of investment required to maintain, modernize and expand our transit infrastructure. A biennial GAO report would provide Congress with an independent analysis of transit need and provide an objective benchmark for determining whether the nation is adequately investing in its transit infrastructure.

TECHNICAL AMENDMENT TO SECTION 9B

The Committee bill would make a technical amendment to the wording of Section 9B of the Urban Mass Transportation Act to conform with other changes proposed in this bill. Section 9B, as currently written, makes reference to authorization provisions enacted by the Surface Transportation and Uniform Relocation Assistance Act of 1987. Those provisions have been amended by section 35 of this Act.

Use of Census Data.—Under current law, all UMTA formula programs use population statistics from the most recently available Federal Census. The Committee bill would require transit programs, where practicable, to utilize more recently available population statistics.

The Committee bill would require that interim population estimates provided by the Secretary of Commerce by used to distribute funds under Section 18 and Section 9 for small urbanized areas. Funds are allocated under these two programs to the state on the basis of the rural or urbanized population in that state. The Secretary of Commerce provides interim estimates of such population distributions on a biannual basis. The formulas for Section 18 and Section 9 for small urbanized areas would be updated every four years so that communities could retain more predictability in planning the use of their formula allocations.

The Committee bill would not require interim formula updates for Section 9 for large urbanized areas because the appropriate data can not be made available. Section 9 funds for areas of population over 250,000 are allocated directly to the urbanized areas. Department of Commerce interim population estimates are available for metropolitan statistical areas, which are defined by entire counties. Urbanized areas are defined on a "block by block" basis and do not necessarily conform to any governmental boundary or jurisdiction. The Commerce Department is, therefore, unable to make interim population estimates based on local governmental data for urbanized areas.

The Committee bill would also require the Secretary to use data from the 1990 census, to the extent practicable, in determining the allocation of funds under Section 9, Section 16(b)(2) and Section 18 for fiscal year 1992. The Secretary of Transportation and the Secretary of Commerce would be required to coordinate efforts to expedite the availability of census data in a form that is appropriate for the transit program formulas. The Secretary of Transportation must notify the Congressional authorizing Committees of actions taken under this section within 9 months of enactment of the Federal Transit Act.

The Secretary of Commerce will make a determination on July 15, 1991 whether or not to make statistical adjustments in the Census data to reflect undercounts and overcounts. The Bureau of the Census projects that population data will be available prior to the beginning of fiscal year 1992, regardless of whether or not statistical adjustments are calculated.

BUY AMERICA

The Committee chose not to amend section 165 of the Surface Transportation Assistance Act of 1982 to allow the President to waive the Buy America provisions when another country also agreed to relax certain of its restrictive provisions.

The waiver authority was included in the proposal submitted by the Administration. The Committee believes that the Administration already possesses the necessary waiver authority pursuant to the United States-Canada Free Trade Agreement Implementation Act of 1988, as well as the Omnibus Trade and Competitiveness Act of 1988.

SECTION-BY-SECTION ANALYSIS

Sec. 1. Short Title: This title would be referred to as the "Federal Transit Act of 1991".

Sec. 2. The Agency Name: The name of the Urban Mass Transportation Administration would be changed to "Federal Transit Administration".

Sec. 3. Amendment to short title of the 1964 Act: The name of the underlying law would be changed from the "Urban Mass Transportation Act of 1964" to the "Federal Transit Act".

Sec. 4. Amendment to Findings and Purposes: This section would amend Section 2(a) of the Federal Transit Act (FT Act) to add a new finding that a significant improvement in public transportation is necessary to achieve national goals for improved air quality, energy conservation, international competitiveness and mobility for the elderly, persons with disabilities and the economically disadvantaged in urban and rural areas of the country.

This section would also amend Section 2(b) to state that an objective of the Act will be to provide State and local governments with the financial resources to help implement the national goals related to improved air quality, international competitiveness and mobility for the elderly, persons with disabilities and economically disadvantaged persons.

Sec. 5. Commute-to-Work Benefits: This section would assert Congressional findings regarding commute-to-work benefits. Although employers may provide unlimited tax-exempt parking benefits to employees, transit and vanpool benefits are limited to $15 per month. If benefits exceed $15 per month, then the entire amount of benefits (including the first $15) becomes taxable. This tax policy is inconsistent with other national objectives including the need to conserve energy, reduce reliance on energy imports, lessen congestion and reduce air pollution. This section would affirm the need to provide equal commute-to-work benefits to transit.

Sec. 6. Capital Grant or Loan Program: The section would rename section 3 of the Urban Mass Transportation Act of 1964 to read "Capital Grant or Loan Program" rather than "Discretionary Grant or Loan Program".

Sec. 7. Capital Grants—technical amendment to provide for early systems work contracts and full funding grant contracts: The bill amends Section 3 of the FT Act to authorize the Secretary to enter into full funding contracts and early systems work agreements with applicants to provide for more efficient project management.

A full funding contract would be designed to (1) establish the terms and conditions of federal financial participation in a project under this section, (2) establish the maximum amount of federal financial obligation for the project, and (3) facilitate timely and efficient management of the project in accordance with federal law. Budget authority obligated by a full funding contract would be limited by the amount made available in the law for obligation. A contract could either obligate the full amount required for the project, or it could obligate a portion of that amount with a commitment, contingent only upon the future availability of budget authority provided for the relevant program, to obligate additional amounts from budget authority that is made available in law for future years. Budget authority obligated in the future pursuant to a contingent commitment would be limited to amounts specified in law in advance for eligible projects. The total amounts stipulated in a contract for a fixed guideway project would have to be sufficient to complete not less than an operable segment. Any interest and other financing costs of efficiently carrying out a project or a portion of a project pursuant to a full funding contract would be considered an eligible project cost under the contract, provided that eligible financing costs could not exceed the costs of the most favorable financing terms reasonably available for the project at the time of borrowing.

An early systems work agreement would permit a grantee to proceed with procurement of land, long-lead-time system elements for which specifications are determined, and other activities that are appropriate to avoid delays or other inefficiencies in project management that would increase overall project costs. The Secretary could only enter into an early systems work agreement if a record of decision pursuant to the National Environmental Policy Act of 1969 (NEPA) has been issued on the project and the Secretary determines there is reason to believe (1) a full funding contract will be entered into for the project and (2) the terms of the early systems work agreement will promote ultimate completion of the project more rapidly and at less cost. An early systems work agreement would obligate an amount of available budget authority and would provide for reimbursement of preliminary costs of project implementation specified in the agreement, which could include land acquisition, timely procurement of system elements for which specifications are determined, and other activities that the Secretary determines to be appropriate to facilitate efficient, long-term project management. The Secretary would establish in the agreement the effective date after which local costs are eligible for federal reimbursement, and such date could be prior to compliance with NEPA so long as local costs incurred otherwise meet relevant federal requirements. Any interest or other financing costs of carrying out the early systems work agreement efficiently would be considered eligible project costs, except that eligible financing costs could not exceed costs of the most favorable financing terms reasonably available for the project at the time of borrowing. If an applicant failed to implement the project for reasons within the applicant's control, the applicant would be required to repay all federal payments made under the early systems work agreement plus reasonable interest and penalty charges as specified in the agreement.

Limitation on letters of intent and contingent commitments. The bill would limit the total value of outstanding letters of intent and contingent commitments included in full funding contracts to (1) the total amount authorized, either as contract authority or as an authorization of appropriations, to carry out the relevant program under Section 3 or (2) 50 percent of the uncommitted cash balance remaining in the Transit Account of the Highway Trust Fund (which includes the amounts received from taxes and interest earned in excess of amounts that have been previously obligated), whichever is greater. Such commitments could be made for new starts, rail modernization or bus projects. The commitment cap related to the Trust Fund balance would not be split by program category.

Sec. 8. Section 3 Program—Allocations: This section would require the Secretary to allocate Section 3 grant funds in the following way: 40 percent for rail modernization; 40 percent for construction of new fixed guideway systems and extensions to fixed guideway systems; and 20 percent for the replacement, rehabilitation and purchase of buses and related equipment and the construction of bus-related facilities.

Sec. 9. Section 3 Program—Rail Modernization Formula: This section would establish a three-tier distribution system for the allocation of rail modernization funds. The new statutory formula would balance the competing needs and claims of historic and "new" fixed guideway systems. The formula would work as follows:

Tier One—Hold Harmless for Historic Rail Systems.—In a given fiscal year, the ten historic systems would receive all the funds up to an appropriation of $455 million, the amount appropriated in fiscal year 1991. The ten historic systems that (1) have received rail modernization funding in at least two of the five fiscal years 1986–1990; and (2) received in fiscal year 1991 at least 0.5 percent of the funding made available under the Section 9 rail tier. Systems qualifying under this definition include: Boston, Chicago, Cleveland, Maryland commuter rail, New York City, Northeastern New Jersey, Philadelphia, Pittsburgh, San Francisco and Southwest Connecticut.

Funds would be distributed as follows:

41 percent of the total "hold harmless" amount would be set aside for New York and Southwest Connecticut. These funds would be further divided so that New York would receive 35 percent of the total amount and Southwest Connecticut would receive 6 percent.

2 percent of the total amount would also be set aside for Pittsburgh.

The remainder of the funds would be distributed primarily on an historic share basis, recognizing in a fair and equitable manner the proportion that each historic system received under the program. Each remaining historic system would generally receive, on an annual basis, the higher of (a) its 3-year share (i.e. averaging funds received from fiscal years 1988 through 1990) or (b) its 7-year share (i.e. averaging funds received from fiscal years 1984 through 1990). The Secretary would make such pro rata adjustments as are necessary in applying this allocation. Each of these systems would be assured, at a minimum, the amount it would have received under the Section 9 rail tier formula.

Tier Two—50/50 Allocation between Historic Rail Systems and "New" Fixed Guideway Systems.—The first $70 million in appropriations above $455 million would be divided on a 50/50 basis between the historic rail systems and those "new" fixed guideway systems experiencing substantial modernization needs—those systems in revenue service for at least ten years. These excess funds would be distributed by the factors contained under the Section 9 rail tier formula.

Tier Three—Distribution By Section 9 Formula.—All amounts appropriated in excess of $525 million would be distributed to all historic rail systems and eligible "new" fixed guideway systems by the factors contained under the Section 9 rail tier formula.

Ineligible Systems—Secretary Discretion.—The Secretary would have the discretion to permit ineligible fixed guideway systems—those that have not been in revenue service for at least ten years—to participate in the formula program where such systems demonstrate that they have modernization needs that cannot adequately be met by section 9 funding.

Apportionment.—In a given fiscal year, the Secretary would be required to apportion rail modernization funds—based on both authorized and appropriations levels—within specified time periods. The Secretary would also be required to publish such apportionments for each program participant within the specified time periods.

Sec. 10. Section 3 Program—Local Share: This section would clarify the existing statutory requirement that 25 percent of the cost of a project approved under section 3 be provided from non-federal sources. The section would permit the costs of rolling stock purchased prior to the approval of a section 3 application to satisfy the non-federal share requirement if (1) the stock was purchased with no federal assistance, (2) the stock would not have been purchased except for its planned use on an extension eligible for Section 3 assistance, and (3) the stock is to be used on the extension for which the Section 3 application is being submitted.

Sec. 11. Section 3—Grandfathered Jurisdictions: This section would clarify that all existing letters of intent, full funding grant agreements and letter of commitment will remain in effect with passage of this Act.

Sec. 12. Capital Grants—Innovative Techniques and Practices: The eligible activities under the section 3 discretionary program would be expanded to include projects that introduce innovative techniques and methods to public transportation. This change merely codifies existing statute by incorporating language from section 4(i) into section 3.

Sec. 13. Capital Grants—Elderly and Persons with Disabilities: This section would amend Section 3 of the Act to allow public transit agencies to apply for capital funding under the Section 3 grant program for transportation projects that are specifically designed to meet the needs of elderly persons and persons with disabilities.

While current law provides for the rights of elderly and disabled persons to use mass transit, the recently enacted Americans with Disabilities Act of 1990 imposes requirements on transit providers that are more stringent than current law and as a consequence, more costly. This section would provide public transit agencies with a mechanism to help address the major capital costs associated with ADA compliance.

Sec. 14. Advance Construction—Technical amendment related to interest cost: The bill would amend Section 3(l) to make the advance construction mechanism more workable by deleting language that requires grantees to bet on future inflation. The bill substitutes the requirement that operators obtain the most favorable interest terms reasonably available for the project at the time of borrowing.

Sec. 15. Criteria of New Starts: This section would modify existing criteria for new starts. The project evaluation process would be revised to ensure that the project's social, environmental and economic impacts are also given appropriate consideration. Cost-effectiveness measures used in rating projects for selection would have to be adjusted for inflation and to reflect regional differences in land, construction and operating costs. To meet the criterion for local financial capacity, a designated recipient would be required to have reasonable contingency funds available to cover unanticipated project cost overruns; have stable, reliable and available funding sources for the duration of the project timetable; and maintain transit service at existing levels. Determinations of the stability, reliability and availability of local funding sources would be based on existing grant commitments; the degree to which funding sources are dedicated to the project; and any debt obligations which exist or are proposed to fund the project or other transit activities.

The Section 3(i) new starts criteria and the limitation of project development to one corridor at a time would not apply to a project if (a) assistance sought under Section 3 is less than $25 million or 30% of the total costs of the project or an interrelated program of projects or (b) a project serves as a transportation control measure necessary to carry out an approved State Implementation Plan in extreme or severe non-attainment areas. The Secretary would be required to expedite the UMTA project review process for projects that are transportation control measures necessary to carry out an approved State Implementation Plan in serious, moderate or marginal non-attainment areas.

Sec. 16. Advance Construction. Technical amendment related to interest cost: The bill would amend Section 3(l) to make the advance construction mechanism more workable by deleting language that requires grantees to be on future inflation. The bill substitutes the requirement that operators obtain the most favorable interest terms reasonably available for the project at the time of borrowing.

Sec. 17. Federal Share for ADA and Clean Air Act Compliance: This section would establish a higher federal match for those projects funded under sections 3, 9, 16(b), and 18 that involve the acquisition of bus-related equipment (e.g. lift equipment, particulate traps) or the construction of facilities (e.g. alternative fuels facilities) required by the Clean Air Act Amendments of 1990 or the Americans with Disabilities Act. The federal match would be set at 90 percent of the cost of such equipment or facilities. The Secretary would determine the portion or portions of a project eligible for the higher federal match.

Sec. 18. Section 9 Formula Grant Program—Discretionary Transfer of Apportionment: This section would amend Section 9 of the FT Act to permit a transfer of transit funds to highway use under certain circumstances. This is comparable to amendments to the Federal-Aid Highway Act that would permit highway funds to be used for transit projects.

Subsection (a) would amend section 9(j)(1) of the FT Act to provide that, in a transportation management area, formula grants for construction projects could also be used for highway projects; provided that (i) such use is approved by the metropolitan planning organization in accordance with section 8(c) after appropriate notice and opportunity for comment and appeal is provided to affected transit providers and (ii) adequate provision is first made for sound operation of existing transit facilities, maintenance of such facilities and their carrying capacity, management of ongoing transit operations, and any program of investments required to comply with the Americans with Disabilities Act or the Clean Air Act as amended.

Subsection (b) would add a new provision to subsection (j) of the FT Act, which would permit Section 9 construction funds to be used for a highway project only if (i) funds for the State or local government share of the project are eligible to fund either highway or transit projects, or (ii) the Secretary finds that State or local law provides a dedicated source of sufficient funding available to fund local transit projects.

Sec. 19. Comprehensive Transportation Strategies: This section amends Section 8 of the FT Act to reform the current transportation planning process to five more attention to intermodal solutions and to give metropolitan planning organizations (MPOs) in certain areas clearer responsibilities for approving projects. It is designed to make few significant changes in current practice for areas that are less densely populated and that do not have problems with air pollution.

Subsection (a) requires the development of comprehensive metropolitan transportation strategies by metropolitan planning organizations.

In general.—The subsection declares it to be in the national interest to encourage and promote the development of transportation systems that integrate various modes of transportation and efficiently maximize mobility of people and goods within and through metropolitan areas and minimize transportation-related fuel consumption and air pollution. The Secretary is required to cooperate with state and local elected officials in metropolitan areas in the development of comprehensive transportation strategies for achieving this objective.

Metropolitan Planning Organizations.—The subsection requires that an MPO be designated for each urbanized area of more than 50,000 in population, as under existing law. The MPO structure would be determined by agreement among the Governor and units of general purpose local government representing at least 75 percent of the affected population, including the central city or cities, as defined by the Bureau of the Census. If an MPO is in a metropolitan area that (1) has population over 250,000, (2) is in non-compliance under the Clean Air Act, or (3) is otherwise eligible for designation as a "transportation management area" as noted below, the MPO will have to include local elected officials, officials of agencies that administer or operate major modes of transportation in the metropolitan area (including, at a minimum, all transportation agencies that were included as of June 1, 1991), and appropriate state officials. For purposes of this section, the term "metropolitan area" means an area for which one metropolitan planning organization is responsible.

Once an MPO is designated, whether under this or earlier provisions of law, the designation shall remain in effect until revoked either by agreement among the Governor and the local governments or by other state or local procedures. To accommodate the new responsibilities conferred under the bill, this subsection would permit MPO's to be reorganized and redesignated at any time by agreement among the Governor and local governments representing at least 75 percent of the metropolitan area's population, including the central city or cities, as defined by the Bureau of the Census. The bill requires that an MPO be redesignated within a period of 12 months if the Secretary designates the metropolitan area to be a transportation management area. The Secretary is required to establish appropriate procedures and timetables for MPOs to comply with membership requirements and other provisions in law.

When an MPO is designated or reorganized, each Governor is required to ensure that the MPO is structured to (1) give balanced assessment to all modes of transportation, including roadway and public transit facilities, (2) give full consideration to the need for mobility of people and goods into and through central cities within the metropolitan area, and (3) otherwise carry out the MPO's responsibilities under federal law. The Governor shall certify to the Secretary that the requirements of the previous sentence have been met.

Transportation Management Areas.—Certain metropolitan areas will be designated to be "transportation management areas", within which the MPO will have expanded responsibilities for planning and projects selection. Transportation management areas would include all metropolitan areas that have greater than 250,000 population, or are nonattainment areas under the Clean Air Act, as amended. The Secretary is required to publish and annually update a list of metropolitan areas that meet those criteria. The Secretary may also designate additional transportation management areas at the request of the Governor and MPO. Such additional metropolitan areas may include ecologically fragile areas of national significance that are expected to be significantly affected by transportation decisions. This would permit local officials in ecologically important areas with smaller populations, such as the Lake Tahoe area in California and Nevada, to have the direct authority they need to carry out a comprehensive, long-range transportation strategy that integrates all modes. The designation of a transportation management area shall remain in effect until revoked by the Secretary. The MPO in a transportation management area is required to carry out a continuing, cooperative and comprehensive transportation planning and programming process in cooperation with the state and transit operators. The bill gives such MPOs additional authority and responsibility.

To provide for an orderly implementation of intermodal planning and programming in transportation management areas, the bill provides a transition period. The Secretary would be required to achieve the designation of not less than a minimum number of transportation management areas in each of the next 5 years: by the end of the first year after enactment, 20 percent of the eligible metropolitan areas would have to be designated; by the end of the second year, 40 percent; by the end of the third year, 60 percent; by the end of the fourth year, 80 percent; and all such areas would have to be designated in the fifth year. The bill makes it clear that the Secretary is responsible for exceeding the minimum percentages required for designation. Although the Secretary can make adjustments for compelling local circumstances, the Secretary is expected to begin with designation of metropolitan areas that have the most severe problems of air quality and traffic congestion. The Committee expects that priority would also be given to metropolitan areas where the MPO is well organized to comply with the requirements of this section and requests such designation. The Secretary would be required to designate all nonattainment areas that are classified under the Clean Air Act, as amended, to be "moderate", "serious", "severe" or "extreme" nonattainment areas for ozone or "serious" nonattainment areas for carbon monoxide within 2 years after the date of enactment of this section.

Metropolitan Area Boundaries.—The boundaries of a metropolitan area would be determined by agreement between the MPO and the Governor. To provide for comprehensive, long-range transportation planning, each metropolitan area would have to include at least the existing urbanized area and the contiguous area that can reasonably be expected to be urbanized within the subsequent twenty year period.

The bill makes provision for metropolitan statistical areas that are so large or complex that one MPO would be too unwieldy. The bill, however, would discourage the break up of MPOs that have already been formed. This subsection permits more than one MPO to be designated within a metropolitan statistical area, as defined by the Bureau of the Census, only if the area had more than one designated MPO on January 1, 1991 and the Secretary determines that more than one MPO is needed because of the size and complexity of the area. The bill authorizes the Secretary to require consolidation of MPOs in a metropolitan statistical area if the Secretary does not find that more than one MPO is needed for coherent regional transportation decision making. If more than one MPO is needed, the bill requires that appropriate provision be made to coordinate the metropolitan transportation strategies of all MPOs within the metropolitan statistical area.

The bill requires all areas that are in non-compliance under the Clean Air Act, as amended, to be included within the boundaries of the appropriate MPO's metropolitan area. An appropriate metropolitan area would also have to include any area that the Governor and MPO determine are likely to be significantly affected by air pollution within the foreseeable future, as determined by the Secretary. If more than one MPO has authority within a non-attainment are, appropriate provision would have to be made to coordinate the metropolitan transportation strategies within the whole non-attainment area.

The bill would foster coordination of transportation strategies across multi-state areas. The Secretary would have to establish requirements to encourage Governors and MPOs with responsibility for a portion of a multi-state Metropolitan Statistical Area (MSA) or Consolidated Metropolitan Statistical Area (CMSA) to provide coordinated transportation planning for the entire MSA or CMSA.

The bill would give States consent to enter into interstate agreements or compacts that are not in conflict with any law of the United States, for cooperative efforts and mutual assistance in support of activities authorized under this section.

Development of Transportation Strategy.—The bill would require each MPO to prepare and update periodically a metropolitan transportation strategy for its metropolitan area. The Secretary would establish procedures according to which the strategy would be prepared. In developing the strategy, the MPO would be required to consider the environmental, energy, land use, and other regional effects of all transportation projects to be undertaken within the metropolitan area, without regard to funding source.

Each MPO would have to publish the strategy or otherwise make it readily available for public review. The MPO would also have to submit the strategy to the Governor for information purposes. The Secretary would have to establish dates and procedures for the publication and submission of strategies.

In Clean Air Act non-attainment areas for transportation-related pollutants, an MPO would be required to coordinate the development of a metropolitan transportation strategy with the development of transportation measures of the State Implementation Plan required by the Clean Air Act.

Each MPO would be required to provide citizens, affected public agencies, representatives of transportation agency employees, private providers of transportation and other interested parties with a reasonable opportunity to participate in the development of the strategy.

The Secretary would have to assure that each MPO is carrying out its responsibilities under applicable provisions of federal law. At least every three years, the Secretary would be required to provide certification to those MPOs that are complying with requirements of federal law. If the Secretary finds, after reasonable notice and opportunity for hearing, that an MPO is not carrying out its responsibilities under applicable provisions of federal law, the Secretary would have to deny certification. In that case, and until satisfactory corrective action is taken, the Secretary may suspend or disapprove in whole or in part the expenditure within the metropolitan area of funds made available under the Federal-Aid Highway Act of 1991 or the Federal Transit Act. The Secretary would be specifically prohibited from (1) withholding certification of an MPO on the basis of the MPO's policies and criteria for determining the feasibility of private sector participation in accordance with section 8(e) or (2) otherwise impeding an MPO's implementation of such policies and criteria.

Contents of Strategy.—A metropolitan transportation stratgegy would be in a form that the Secretary deems appropriate. At a minimum, a strategy would:

(A) Identify transportation facilities (including major roadways, mass transit, and multimodal and intermodal facilities) that should function as an integrated metropolitan transportation system, giving emphasis to those facilities that serve important national and regional transportation functions, such as (i) moving goods within the metropolitan area and among distant markets, (ii) enabling people to move quickly to and from home, jobs and other destinations, and (iii) connecting complementary modes of transportation (such as highways, transit systems, ports, railroads and airlines);

(B) Assess major demands on the metropolitan transportation system, projected over the subsequent 20 year period;

(C) Set forth a long-range strategy for meeting metropolitan area personal mobility and goods transportation needs, including state and local actions to manage travel demand, improve transportation operations and management, increase the efficiency and effectiveness of existing facilities, or provide new transportation capacity;

(D) Explain how proposed transportation decisions will (i) achieve compliance with applicable requirements of the Clean Air Act, as amended, the Clean Water Act and other environmental and resource conservation laws, (ii) further applicable federal, state and local energy conservation programs, goals and objectives and (iii) affect other important social, economic and environmental objectives of the metropolitan area as reflected in publicly adopted plans, such as those concerning housing, community development, and historic preservation;

(E) Explain (i) the extent to which state and local policies regarding land use and transportation will affect metropolitan-wide mobility, and (ii) how proposed transportation decisions will affect future travel demand, growth in vehicle use, mobile source emissions, and land use and development, taking into consideration the provisions of all applicable short-term and long-term land use and development plans;

(F) Include a financial plan showing how the metropolitan transportation strategy can be implemented, which plan shall indicate resources from all sources that are reasonably expected to be made available to carry out the strategy, and recommend any innovative financing techniques to finance needed projects and programs, including such techniques as value capture, tolls, and congestion pricing;

(G) Project capital investments and other measures necessary to (i) ensure the preservation of the existing metropolitan transportation system, including requirements for operations, resurfacing, restoration and rehabilitation of existing and future major roadways, as well as operations, maintenance, modernization and rehabilitation of existing and future public transit facilities and (ii) make the most efficient use of existing transportation facilities to relieve vehicular congestion and maximize the mobility of people and goods; and

(H) Indicate any proposed transportation enhancement activities, as defined in the Clean Air Act.

For metropolitan areas that are not transportation management areas, the bill would permit the Secretary to provide for abbreviated strategies appropriate to achieve the purposes of this section, taking into account the complexity of transportation problems, including transportation related air quality problems, in such areas. The state would be required to develop a state-wide transportation strategy that takes into account the transportation needs of areas for which no MPO has been designated.

Subsection (b) of the bill establishes requirements for transportation improvement programs.

Development of programs.—The MPO, in cooperation with the state and relevant transit operators, would be required to develop and submit to the Secretary for review a transportation improvement program for the ensuing period of not less than 3 years and, to the extent practicable, for subsequent periods of not less than 3 years. The program would have to include all projects within the metropolitan area that are proposed for funding pursuant to the Federal-Aid Highway Act of 1991 and the Federal Transit Act. The program would have to conform with the approved metropolitan transportation strategy and the State Implementation Plan required under the Clean Air Act, as amended. The program would have to include a project, or an identified phase of a project, only if full funding for such project or project phase can reasonably be anticipated to be available within the period of time contemplated for completion of the project. In the case of a major project to expand the transportation capacity, an appropriate range of alternatives would have to have been analyzed in accordance with the National Environmental Policy Act.

Periodic review and revision.—The bill would require the MPO to update or reapprove the program annually, although the Secretary could permit less frequent updating for areas that are not designated to be transportation management areas. An MPO would be able to amend the program at any time, provided that the amendment is consistent with the metropolitan transportation strategy.

Notice and Comment.—Prior to approving a transportation improvement program, an MPO would be required to provide citizens, affected public agencies, representatives of transportation agency employees, private providers of transportation and other interested parties with reasonable notice of, and opportunity to comment on, the proposed program.

Priority Projects.—The program would have to identify priority projects reflecting projected funding and the objectives of the metropolitan transportation strategy that shall be carried out for each relevent programming period.

State programs.—The Governor shall, for areas for which no MPO has been designated, develop and submit to the Secretary a transportation improvement program (TIP) covering a period of not less than 3 years. The State TIP would have to be in a form acceptable to the Secretary and include projects proposed for funding in both metropolitan and non-metropolitan areas under the bridge and interstate assistance program of the Federal-Aid Highway Act of 1991.

Subsection (c) gives MPOs within transportation management areas the authority to approve funding of projects that expand the capacity of the transportation system.

Approval of projects.—For projects within a transportation management area, the MPO would submit to the Governor and the Secretary a list of highway and transit projects and activities that the MPO has approved for funding in the ensuing period, which could not exceed two years. Federal assistance required for the approved projects and activities could not exceed the amount of federal assistance that is made available for capacity expansion within the metropolitan area for the period—either under section 106 of the Federal-Aid Highway Act of 1991 or sections 3 and 9 of the Federal Transit Act. When submitting a list of approved projects and activities, the MPO would have to certify to the Secretary that the list (A) was developed in accordance with a continuing, cooperative and comprehensive planning process that the Secretary has found satisfactory under subsection (a)(4)(E) and (B) is consistent with a transportation improvement program that is submitted to the satisfaction of the Secretary under subsection (b)(2).

Funds under the Federal-Aid Highway Act of 1991 or the Federal Transit Act could not be used for any project or activity within a transportation management area unless it is included in the list of projects approved by the MPO.

The prohibition in the previous sentence would not apply to projects or activities that (A) are necessary to manage, maintain and preserve existing transportation facilities or operations without adding to the design capacity of such facilities, or (B) are part of a program of investments to comply with the Americans with Disabilities Act or the Clean Air Act, as amended. Planned projects or activities exempted from MPO approval under this section would still have to be included within a TIP.

Recapture.—The bill provides that federal highway and transit funds made available in a transportation management area for project selection by an MPO would remain available for a period of 3 years. If they are not obligated within that period, the Secretary would be required to recapture the funds and promptly reallocate them among other states according to the formula for the program under which the funds were made available. Funds would be considered to be obligated if they are reserved to help finance a project for which an applicaiton is pending under Section 3 of the Federal Transit Act.

Transfer of funds.—Funds made available under the Federal Transit Act that are approved by an MPO for a highway project would have to be transferred promptly to and administered by the Federal Highway Administration, in accordance with the requirements of the Federal-Aid Highway Act of 1991. Funds made available under the Federal-Aid Highway Act that are approved by an MPO for a transit project would have to be transferred promptly to and administered by the Federal Transit Administration in accordance with the requirements of the Federal Transit Act.

Subsection (d) authorizes the Secretary, as under existing law, to contract for and make grants to states and local public bodies and their agencies for planning, engineering, designing, and evaluation of public transportation projects, and for other technical studies. Activities assisted under this section could include (1) studies relating to management, operations, capital requirements, and economic feasibility; (2) preparation of engineering and architectural surveys, plans, and specifications; (3) evaluation of previously funded projects; and (4) other similar or related activities preliminary to and in preparation for the construction, acquisition, or improved operation of mass transportation systems, facilities and equipment. A grant of contract under this section would have to be made in accordance with criteria established by the Secretary.

Subsection (e), as does existing law, requires plans and programs under this section to encourage the participation of the private sector to the maximum extent feasible. A metropolitan planning organization would have exclusive responsibility for determining the policies and procedures necessary to carry out this subsection. If a program involves the acquisition of facilities and equipment that are already being used for mass transportation in urban areas, the program would have to provide that the facilities and equipment be so improved (such as through modernization, extension, or addition) that they will better serve the transportation needs of the area.

Subsection (f) would provide for the allocation of planning funds to MPOs. State planning funds would be provided as part of the new Section 26 State Program.

Basic Formula.—80 percent of the funds available to MPOs would be allocated to states in the ratio that the population in urbanized areas, in each state, bears to the total population in urbanized areas, in all the states as shown by the latest available decennial census. No state would receive less than ½ of 1 percent of the amount apportioned under this paragraph, however.

Funds would be allocated to MPOs within the state, by a formula—developed by the State in cooperation with metropolitan planning organizations and approved by the Secretary—that considers population in urbanized areas and provides an appropriate distribution for urbanized areas to carry out the cooperative processes described in section 8 of this Act.

Supplemental Formula for Transportation Management Areas.—The remaining 20 percent of the funds made available to MPOs would be allocated to supplement funds for metropolitan planning organizations in transportation management areas. Such funds would be allocated according to a formula that reflects the additional costs of carrying out planning, programming and project selection responsibilities under this section in such areas.

Hold Harmless.—To ensure that each MPO would receive no less under the formula than the amount it received by administrative formula under section 8 of this Act in fiscal year 1991, the Secretary could make a pro rata reduction in other amounts made available to carry out the state and national planning and research program.

Matching Share.—The federal share for section 8 activities would be 75 percent except where the Secretary determines that it is in the federal interest not to require a state or local match.

Sec. 20. Section 9 program—Allocations: This section would make a technical correction to the percentage of funds set-aside for small urbanized areas and large urbanized areas. Under current law, the section 18 and section 9 programs are funded as percentage set-asides from one amount. The bill provides for a separate set-aside for rural transit programs. This section simply reflects this change by proportionally adjusting the section 9 set-asides for large urbanized areas and small urbanized areas.

Sec. 21. Section 9 Formula Grant Program—Discretionary Transfer of Apportionment: This section would amend Section 9 of the FT Act to permit a transfer of transit funds to highway use under certain circumstances. This is comparable to amendments to the Federal-Aid Highway Act that would permit highway funds to be used for transit projects.

Subsection (a) would amend section 9(j)(1) of the FT Act to provide that, in a transportation management area, formula grants for construction projects could also be used for highway projects; provided that (i) such use is approved by the metropolitan planning organization in accordance with section 8(c) after appropriate notice and opportunity for comment and appeal is provided to affected transit providers and (ii) adequate provision is first made for sound operation of existing transit facilities, maintenance of such facilities and their carrying capacity, management of ongoing transit operations, and any program of investments required to comply with the Americans with Disabilities Act or the Clean Air Act as amended.

Subsection (b) would add a new provision to subsection (j) of the FT Act, which would permit Section 9 construction funds to be used for a highway project only if (i) funds for the State or local government share of the project are eligible to fund either highway or transit projects, or (ii) the Secretary finds that State or local law provides a dedicated source of sufficient funding available to fund local transit projects.

Sec. 22. Section 9 Program—Elimination of Incentive Tier: This section would eliminate the "incentive tier" provisions of the section 9 bus and rail funding formulas. The "incentive tier" provisions—introduced in the Surface Transportation Assistance Act of 1982—now allocate a small portion of formula funds by factors purporting to weigh and reward the operating efficiency of bus and rail systems. The Administration recommended eliminating the incentive tier for the following reasons: (1) the techniques used to collect the necessary data—particularly passenger miles—are difficult to verify and apply consistently among the nation's transit operators; (2) there is no evidence that application of the incentive factors has induced any change in behavior among the transit operators; and (3) the overall effect of eliminating the incentive tier would be insignificant.

Sec. 23. Section 9 Program—Energy Efficiency: This section would amend section 9 to prevent a transit recipient that undertakes certain energy efficiency initiatives from losing formula funds. Under existing law, a rail system that makes energy savings by using less equipment (e.g. by running shorter trains)—while still providing the same frequency of revenue service to the same number of riders—would lose funds under the Section 9 rail tier formula. The section would hold harmless those rail systems that demonstrate to the satisfaction of the Secretary the combination of energy savings and continued service described above.

Sec. 24. Section 9 Program—Applicability of Safety Program: This section would apply Section 22 of the Federal Transit Act, which gives the Secretary investigatory powers to ensure safety in mass transit systems, to the section 9 program. The provision is necessary because of the requirement in section 9(e)(1) that only specified sections of the Federal Transit Act apply to section 9.

Sec. 25. Section 9 Program—Certifications: This section would make several amendments to simplify the section 9 grant application process—particularly the existing requirements that recipients self-certify their compliance with various statutory mandates.

Subsection (a) would mandate that all certifications required by law be incorporated into a single document to be submitted annually as part of the Section 9 application. The subsection would also require the Secretary to publish an annual list of all required certifications in conjunction with its annual publication—currently required by Section 9(q)—of information outlining the apportionment of Section 9 funds.

Subsection (b) would require the Secretary to establish streamlined procedures to govern a recipients "continuing control" certification with respect to tract and signal equipment. Under existing law, a section 9 recipient is required to certify that it has or will have "satisfactory continuing control" over the use of its facilities and equipment. Transit operators have found that UMTA's interpretation of this requirement with respect to track and signal equipment imposes unnecessary administrative burdens on transit recipients.

Sec. 26. Section 9 Program—Program of Projects: This section would require a recipient, in developing its program of projects, to assure that the program provides for the maximum feasible coordination of public transportation services assisted under the section 9 program with transportation services assisted by other federal sources. A similar provision currently is in Section 18 of the Act.

Sec. 27. Section 9 Program—Continued Assistance for Commuter Rail in Southern Florida: This section would amend the Surface Transportation and Uniform Relocation Assistance Act of 1987 to permit a commuter rail line (Tri-County Rail Authority) in southeastern Florida to continue to receive federal operating assistance under section 9.

Sec. 28. Section 11—University Transportation Centers: Section 28(1) would revise the responsibilities of university transportation research to include safety issues. Section 28(2) would delete the current National Advisory Council provision and replace it with a requirement that the results of studies conducted by the Centers be coordinated and disseminated by the Secretary.

Section 28(3) would amend section 11(b)(8) to permit up to 1% of the funds made available under this program by any agency of the Department to be available for the administrative expenses the Department incurs in administering the program. The Secretary intends to delegate the responsibility to administer the program to the Administrator of the Research and Special Programs Administration.

Section 28(4) would add paragraphs (11) and (12) to the end of section 11(b) of the Act. Paragraph (11) allows the Secretary to make available to the University Centers other funds appropriated for transportation research.

In addition, paragraph (12) would establish three additional National University Centers for transportation management, research and development to accelerate the involvement and participation of minorities and women in transportation related professions, especially in the science, technology and engineering disciplines. These new Centers would meet all of the guidelines and criteria applicable to the other University Centers.

Sec. 29. Rulemaking: This section would require the Secretary to undertake formal rulemaking when proposing or implementing rules governing activities under the Urban Mass Transportation Act. This is intended to prevent the Secretary from implementing policy revisions through routine guidance circulars rather than through formal rules.

Sec. 30. Section 12—Transfer of Facilities and Equipment: This section would amend the general provisions of Section 12 to allow the Secretary to authorize the transfer of facilities and equipment acquired with funds under the Act to any public body for uses other than mass transportation. Under current law, the transfer of excess property for other public uses is difficult and cumbersome. This provision would simplify the process and allow, for example, the transfer of a surplus bus maintenance facility from a transit authority to a public school district.

The transferred facilities and equipment would have to remain in a public purpose use for a minimum of five years. In addition, prior to making any transfer, the Secretary would first have to make a written determination that there are no other mass transit purposes for which the asset should be used; that the benefit of the transfer outweighs liquidation of the asset and return of the Federal financial interest in the asset; and that there is no Federal use for the asset.

Sec 31. Special Procurement: The bill will amend section 12 of the FT Act by adding a new subsection that authorizes two new refinements to law affecting FTA procurement procedures.

Turnkey System Procurements.—This paragraph would promote the adoption of new transit technologies, such as automatically guided rail systems, and make possible lower cost construction of new mass transportation systems through the use of "turnkey" procurement. "Turnkey" refers to a vendor-specific project under which a manufacturer contracts to (1) build a total system that meets specific performance criteria, (2) operate it for a period of time, and then (3) transfer operation to the transit system after reliable performance is assured. The paragraph would authorize the Secretary to allow the solicitation for a turnkey system project to be conditionally awarded before all Federal requirements have been met so long as the award is made without prejudice to the implementation of those Federal requirements. Federal financial assistance under the FT Act could be made available when the recipient has complied with relevant Federal requirements. The Secretary is expected to develop appropriate regulations in a timely manner. In the meantime, and to assist in the development of those regulations, the Secretary is authorized to select a maximum of 4 projects under this paragraph and temporarily to waive requirements of law to the extent that such waiver is appropriate to achieve efficient and expeditious implementation of those projects.

Multi-year rolling stock procurement.—This paragraph would authorize a transit operator to enter into multi-year agreements for the purchase of rolling stock, such as busses and rail cars, and replacement parts. The purpose of this reform is to permit a reduction of overall procurement and maintenance costs through greater standardization and more orderly replacement of fleets. The agreements could provide for an option to purchase additional rolling stock or replacement parts for a period not to exceed 5 years from the date of the original contract. The Committee considered favorably a proposal to amend existing statute with language stating that an operator could award a contract to other than the low bidder so long as the recipient pays the extra cost with non-Federal funds and Federal reimbursement is made on the basis of the low bid. The Committee did not include this amendment after being assured by the Administration that existing law permits operators to achieve this by using negotiated procurement procedures.

The paragraph would also authorize two or more recipients to cooperate for the joint procurement of vehicles. The Secretary is expected to provide streamlined procedures so that rural transit operators and smaller communities can efficiently use such joint procurement procedures.

Sec. 32. Section 16—Elderly and Persons with Disabilities: This section would clarify existing FTA practice by specifying that funds provided under the Section 16(b)(2) program will be allocated to the States, who in turn will distribute funds to eligible private non-profit organizations. States would submit a program of projects to the Secretary for approval as is current practice. The section also requires an assurance that the state's program of projects provides for the coordination of Section 16(b)(2) transportation services with transportation services assisted from other Federal sources. This provision is designed to encourage more effective coordination and to avoid duplication of service.

In addition, the section would authorize assistance to public bodies that are approved by a State to coordinate transportation services for elderly persons and persons with disabilities. This provision is designed to support the efforts of States attempting to coordinate transportation services. For example, Florida has passed a state law that mandates statewide coordination of all transportation services for the disadvantaged. Several of the entities designated by the state to coordinate these activities are public bodies such as county commissions. Although these designated entities must coordinate both funding sources and service provision, current law precludes them from receiving funds under 16(b)(2), thus hindering their ability to fully coordinate these transportation services.

The section would allow the Governor of each state to use any funds that remain unobligated from the Section 16(b)(2) program during the final 90 day period prior to the expiration of the grant to be used to supplement funds distributed under either the Section 18 program or the Section 9 program.

The section would also require the Secretary to issue regulations to allow recipients of 16(b)(2) funds to lease their equipment to public transit entities. The section specifies that the regulations shall be issued within 60 days of enactment of the bill.

Sec. 33. Section 18—Transfer of Facilities and Equipment: This section would add a provision to allow States the flexibility to transfer facilities and equipment between the Section 18 and Section 16(b) programs. Current law does not allow equipment transfers from one program to the other. Under this provision a State could, for example, transfer vans purchased with Section 18 funds to the Section 16(b) program and vice versa. The original program use requirements of Section 18 and Section 16(b) would continue to apply to any transferred equipment.

Sec. 34. Section 20—Human Resources Program Support: This section would amend current Section 20, which authorizes the Secretary to make grants or contracts for national or local programs that address human resource needs as they apply to public transportation activities. This section would redesignate the current provision as subsection (a) and add a new subsection (b).

This new subsection would authorize the Secretary to retain any funds returned in connection with these human resource activities in a fund whereby these retained funds could in turn be made available for any human resource activities eligible to be funded under section 20.

Sec. 35. Authorizations: This section would provide authorization levels for the various programs in the bill. Under current law, section 9 and 18 formula programs are funded primarily from general revenue. The section 3 new starts, rail modernization, and bus discretionary programs, section 16(b)(2) elderly and handicapped transit and Section 8 planning—are funded from the mass transit account of the highway trust fund. Historically, programs funded from general revenues have experienced larger cuts in the appropriations process than have programs funded from the trust fund. This proposal would restructure funding sources to provide greater equity between formula and discretionary programs. All formula and discretionary programs would receive a similar percentage of funds from both the trust fund and general revenues.

Funding for the various programs would, in most cases, be provided as a percentage of total funds available for formula and discretionary programs and the National Capital Transportation Act.

3.0% of total FTA funds would be authorized for planning, programming and research.

Those funds would be distributed as follows:

45% would be available for MPOs under section 8(f);

5% would be available for the Rural Transit Assistance Program under section 18(h);

20% would be available for the state research and planning program under section 26(a); and

30% would be available for the national planning and research program under section 26(b).

1.04% of total FTA funds would be authorized for administrative expenses under section 12(a)—providing the Administration's requested amount;

1.5% of total FTA funds would be authorized for elderly and handicapped transportation under section 16(b);

$5,000,000 would be authorized for each of fiscal years 1992 through 1996 for University Transportation Centers under section 11(b);

$160,000,000 would be authorized for fiscal year 1992 and $164,843,000 for fiscal year 1993 for completion of the Interstate Transfer program transit projects;

6% of the remaining formula funds would be authorized for rural transportation under section 18, which would essentially double funding for these activities;

the balance of formula funds would be available for section 9 formula grants.

Sec. 36. Report on Safety Conditions in Mass Transit: This section would require the Secretary to submit a report to Congress within 180 days of enactment on the safety record of mass transit. The report would include a summary of all passenger-related and employee-related deaths and injuries resulting from unsafe conditions in mass transit facilities. The report would also include a summary of the investigative and remedial actions taken by the Secretary in accordance with the authority provided by Section 22. Finally, the report would make recommendations concerning any legislative or administrative actions that are necessary to ensure that recipients of federal funds will institute the best means available to correct or eliminate safety hazards.

Sec. 37. Section 23—Project Management Oversight: This section would increase the percentage of funds reserved for FTA's project management oversight program. The current ½ percent takedown from of all funds available to carry out sections 3, 9, 18, interstate transfer projects, and the National Capital Transportation Act (authorizing legislation for D.C. Metro) would be increased to ¾ percent. A technical restriction would be removed that currently limits the use of these "takedowns" from each eligible program to projects funded under that same particular section. Instead, FTA could aggregate all of these funds for use on projects in any of the eligible programs.

Sec. 38. Section 26—Transportation Planning and Research: This section would clarify the research functions of the agency adding a new Section 26 to the Act. Subsection (a) would provide for a state research and planning program.

50 percent of the funds authorized under subsection 35(c)(3) of this Act would be available under subsection 26(a)(1) of the FT Act for a transit cooperative research program to be administered by an independent governing board established by the Secretary. The majority of the board members would represent transit operating agencies. The mass transit projects the board approves would be carried out by means of grants or cooperative agreements from the Secretary of the National Academy of Sciences. The transit cooperative research program is intended to be an applied research program that focuses on identifying and evaluating solutions to everyday problems of transit operators.

The other 50 percent of funds would be available to the States on the basis of population for grants or contracts consistent with the purposes of sections 6, 8, 10, 11, or 20 of the Act. No state would receive less than one-half of one percent of the amount apportioned in this section. States could also use a portion of their funds for activities in conjunction with the transit cooperative research program as well with local metropolitan planning organizations.

Subsection (b) would provide for a national research program to be administered by the Secretary. The secretary would be authorized to use the funds from section 35(c)(4) for grants or contracts in accordance with sections 6, 8, 10, 11, or 20 of the Act.

Subsection (b)(2) would require the Secretary to set aside a minimum of $2 million in funds for transit related technical assistance, demonstration programs, research development, technological innovations and public education for the purpose of assisting with implementation of the American with Disabilities Act. To the extent practicable, the Secretary would contract with a national nonprofit organization with demonstrated capacity to carry out this activity.

Subsection (b)(3) would authorize the Secretary to use up to 25% of the section 26(b)(1) funding for special initiatives. In connection with these initiatives, the Secretary may provide expedited processing governing compliance with requirements of this Act for nonrenewable grants that do not exceed $100,000.

Subsection (b)(4) would authorize the Secretary to undertake a program of transit technology development in coordination with affected entities. The Secretary would establish an Industry Technical Panel composed of representatives of transportation operators and suppliers. Representatives of the suppliers could comprise a majority. The panel would assist the Secretary in identifying promising areas for technology development and in developing guidelines for project development. The Secretary would also develop guidelines on cost sharing principles for technology development projects.

Subsection (b)(5) would permit the Secretary to use funds under this subsection to supplement funds under the transit cooperative research program, subsection (a)(1) of this Act, in the state program.

Subsection (b)(6) would permit the Secretary to impose an appropriate local share for any grant or contract that gives a clear and direct financial benefit to an entity.

Sec. 39. Technical Accounting Provisions: This section would correct administrative difficulties resulting from current accounting practices. Funds appropriated prior to October 1, 1983, that remain available for expenditure after October 1, 1991, could be transferred to and administered under the most recent appropriation heading for the relevant section.

Sec. 40. GAO Report on Impact of Charter Service Regulations: This section would require the General Accounting Office to submit a report to Congress evaluating the impact of the existing charter service regulations on the ability of communities to meet their local transportation needs. The report would specifically analyze the impact of the regulations on the ability of communities to meet the transportation needs of government, civic and charitable organizations and carry out economic development activities. The report would also analyze the extent to which (1) public transit operators and private carriers have entered into charter service agreements; and (2) private carriers profit from the provision of charter service by public operators. The GAO would be instructed to examine the impact of the charter service regulations in at least three communities. The final report would be due not later than 12 months following enactment of the Act.

Sec. 41. GAO Study on Public Transit Needs: This section would require the General Accounting Office, on a biennial basis, to submit a report to Congress that evaluates the extent to which the nation's transit are being adequately addressed. The report would include (1) an analysis of the unmet needs for transit; (2) a projection of the maintenance and modernization needs that will accrue over the coming five years as existing transit equipment and facilities deteriorate; and (3) a projection of the need to invest in additional transit facilities over the coming five years to meet changing economic, commuter and residential patterns. The report would also estimate (1) the cost of meeting the needs identified above; (2) the public and private resources that will be available to support public transit; and (3) the gap between transit needs and resources.

Sec. 42. Use of Population Estimates: This section would require more frequent updates of the population statistics used to distribute funds under Section 18 and Section 9 for small urbanized areas. Under current law, all UMTA formula programs use population statistics from the most recently available Federal Census. This section would require the Secretary to use interim population estimates provided by the Secretary of Commerce to update the formulas every four years.

Sec. 43. Section 9B—Technical Amendment: This section would make a technical amendment to the wording of Section 9B of the Urban Mass Transportation Act to conform with other changes proposed in this bill.

Sec. 44. Use of Census Data: This section would require the Secretary to use data from the 1990 census, to the extent practicable, in determining allocation of funds under Sections 9, 16(b)(2) and 18 for fiscal year 1992. The Secretary of Transportation and the Secretary of Commerce would be required to coordinate efforts to expedite the availability of census data in a form that is appropriate for the transit program formulas. The Secretary of Transportation must notify the Congressional authorizing Committees of actions taken under this section within 9 months of enactment of the Federal Transit Act.

CONGRESSIONAL BUDGET OFFICE, COST ESTIMATES

1. Bill number: S. 1194.
2. Bill title: Federal Transit Act of 1991.
3. Bill status: As ordered reported by the Senate Committee on Banking, Housing, and Urban Affairs, June 6, 1991.
4. Bill purpose: S. 1194 would provide contract authority and authorize appropriations for various programs of the Urban Mass Transit Administration (UMTA). For urban formula grants, rural transit grants, interstate transfer transit grants and several other UMTA programs, the bill would provide contract authority totalling $6.6 billion and authorize appropriations of $7.0 billion over the 1992-1996 period. For capital grants authorized by Section 3 of the Urban Mass Transportation Act of 1964 (known as the section 3 program), the bill would provide contract authority of $3.4 billion and authorize appropriations of $4.0 billion over the same period.

The bill would also make a number of changes to the funding structure of federal mass transportation grant programs. Under current law, only the section 3 program and the section 9B formula capital grants program are funded with contact authority while all other UMTA programs are subject to appropriations. S. 1194 would establish a dual funding system where by all UMTA programs would receive both contact authority and appropriations. Further, funding for all these programs would come from both the transit account of the Highway Trust Fund and the general fund of the Treasury.

UMTA would receive additional flexibility in managing capital projects under S. 1194. The bill would allow the agency to enter into full funding contracts under the section 3 program that could include contingent commitments to obligate future years' budget authority for specific projects. UMTA could also enter into early systems work agreements that would obligate available budget authority to pay for preliminary project implementation costs in advance of final project approval.

Also included in this bill are provisions that would:

Change the name of the Urban mass Transportation Administration to the Federal Transit Administration;

Expand the activities eligible for funding under UMTA grant programs; and

Expand the existing transportation planning process established by the 1964 act.

5. Estimated Cost to the Federal Government:

[By fiscal year, in millions of dollars]

	1992	1993	1994	1995	1996
Budget authority:					
Formula grants and other UMTA programs	1,071	1,220	1,300	1,450	1,565
Section 3 capital grants	535	580	680	750	835
Total budget authority	1,606	1,800	1,980	2,200	2,400
Authorizations:					
Formula grants and other UMTA programs	1,440	1,387	1,351	1,382	1,460
Section 3 capital grants	775	780	799	829	850
Total authorization level	2,215	2,167	2,150	2,210	2,310
Estimated outlays	710	1,524	2,381	3,020	3,675
Total:					
Budget authority/authorizations	3,821	3,967	4,130	4,410	4,710
Estimated outlays	710	1,524	2,381	3,020	3,675

Total outlays for programs authorized by this bill, including outlays from previous years' appropriations, would grow from $3.6 billion in 1992 to $4.2 billion in 1996.

The costs of this bill fall within budget function 400.

Basis of estimate: The budget authority equals the contract authority provided in this bill. To estimate outlays from the contract authority, we assume that obligation limitations customarily established in appropriations acts would equal the budget authority. Because these outlays are subject to such limitations and to liquidating appropriations, they are considered discretionary and so are included under authorizations in the above table.

For the spending subject to appropriations, CBO assumed that the full amounts authorized for each year would be appropriated prior to the start of the fiscal year. Outlay estimates are based on historical spending rates.

6. Pay-as-you-go considerations: The Budget Enforcement Act of 1990 sets pay-as-you-go procedures for legislation affecting direct spending or receipts through 1995. While S. 1194 would provide contract authority for mass transportation programs, the outlays for these programs would be considered discretionary, as explained above. Therefore, CBO estimates that enactment of S. 1194 would not affect direct spending or receipts, and pay-as-you-go procedures would not apply to this bill.

7. Estimated cost to state and local governments: Most of the funding provided by this bill is in the form of grants to state and local governments. Several provisions would affect the allocation of funds among the states and alter cost-sharing arrangements for some types of projects. Specifically, the bill would establish a higher federal share for projects that involve the acquisition of equipment or construction of facilities required by the Clean Air Act Amendments of 1990 or the Americans with Disabilities Act. In addition, S. 1194 would expand the activities eligible for funding under UMTA grant programs.

Federal requirements for transportation planning would be expanded upon enactment of this legislation, but funds provided for this purpose would also increase.

8. Estimate comparison: None.

9. Previous CBO estimate: None.

10. Estimate prepared by: Marjorie Miller (226-2860).

11. Estimate approved by: C.G. Nuckols for James L. Blum, Assistant Director, for Budget Analysis.

REGULATORY IMPACT STATEMENT

In accordance with paragraph 11 of Rule XXVI of the Standing Rules of the Senate, the Committee makes the following statement regarding the regulatory impact of the bill.

Enactment of the reported measure would provide federal assistance needed to achieve more efficient and accessible forms of transportation with methods that, in the aggregate, would reduce regulatory and administrative burdens.

CHANGES IN EXISTING LAW

The Committee has determined that it is necessary, in order to expedite the business of the Senate, to dispense with the requirements of rule XXVI, paragraph 12, of the Standing Rules of the Senate, with respect to this legislation.

ADDITIONAL VIEWS OF MR. D'AMATO

Hon. DONALD W. RIEGLE, JR.,
Chairman, Senate Banking, Housing and Urban Affairs Committee,
U.S. Senate, Washington, DC.

DEAR CHAIRMAN RIEGLE: It is important to note that the process by which the rail modernization formula was reached was a very difficult one. The established formula was based on a combination of historic averages and rail tier formula factors. The historic averages, unfortunately, represent the skewed distribution patterns that were criticized under the discretionary program. The rail tier formula factors represent a statutory formula prescribed by Congress that distributes funds under a service based needs formula.

All of our historic systems have greater capital needs than there is funding available. But, under the service based distribution of funds, as proposed by the Administration, the dollars flow where the service is located. Under this formula New York qualifies for 41% of the rail modernization funds since it represents 41% of the service nationwide.

Attached is a letter, sent to all Full Banking Committee Members, form UMTA Administrator Brian Clymer stating the fairness represented by use of a service based formula. I submit these letters as "Additional Views" to the committee report.

Thank you for your consideration and cooperation.

Sincerely,

ALFONSE M. D'AMATO,
U.S. Senate.

URBAN MASS TRANSPORTATION ADMINISTRATION,
Washington, DC.

Hon. ALFONSE M. D'AMATO,
U.S. Senate,
Washington, DC.

DEAR SENATOR D'AMATO: As you prepare to mark up transit reauthorization legislation, I strongly urge you to retain a cornerstone of the Administration's Bill—placing the rail modernization program within the Section 9 formula. Distribution of these funds under a responsible service-based formula will build predictability into a formerly discretionary program. Grantees will be better able to plan projects and maximize the use of Federal dollars.

The Administration's proposal would allocate funds to those cities with rail needs under the existing Section 9 Program. I believe that an equitable allocation should tie funding to rail service factors. Formulas based on historic shares received of this formerly discretionary program will result in skewed distributions of funds.

Our proposal would allocate $600 million to the Section 9 formula program. These funds would be allocated by the rail tier factors in the current Section 9 formula: 60% fixed guideway revenue vehicle miles and 40% fixed guideway route miles. These statistics come directly from our Section 15 Uniform System of Accounts and Record Keeping. This would have the effect of providing funds for rail modernization needs of the traditional rail modernization cities and other cities with newer rail systems from an expanded formula program.

Equity and predictability are best served by allocation of the rail modernization program by the Section 9 formula. This important program affects the distribution of close to half a billion dollars in Federal funds each year. Under separate cover the Department is responding more broadly to issues raised by S. 1194. I am available at your convenience to discuss this matter in more detail.

Sincerely,

BRIAN W. CLYMER.